

# NOMINATIONS CONSIDERED DURING THE FIRST SESSION OF THE 106th CONGRESS

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## HEARINGS BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE ONE HUNDRED SIXTH CONGRESS FIRST SESSION ON

THE NOMINATION OF **GEORGE T. FRAMPTON** TO BE A MEMBER,  
COUNCIL ON ENVIRONMENTAL QUALITY—**APRIL 28, 1999**

THE NOMINATION OF **TIMOTHY FIELDS, JR.** TO BE ASSISTANT ADMIN-  
ISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE, ENVIRON-  
MENTAL PROTECTION AGENCY—**MAY 5, 1999**

THE NOMINATIONS OF **RICHARD MESERVE** TO BE A MEMBER OF THE  
NUCLEAR REGULATORY COMMISSION, **PAUL L. HILL**, TO BE A MEM-  
BER, CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD, AND  
MAJOR GENERAL **PHILLIP R. ANDERSON**, BRIGADIER GENERAL **ROB-  
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MISSISSIPPI RIVER COMMISSION—**SEPTEMBER 23, 1999**

THE NOMINATIONS OF **GLENN L. McCULLOUGH**, AND **SKILA HARRIS**  
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ALD V. POJE**, TO BE A MEMBER OF THE CHEMICAL SAFETY AND  
HAZARD INVESTIGATION BOARD—**OCTOBER 6, 1999**



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## NOMINATION OF GEORGE T. FRAMPTON

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WEDNESDAY, APRIL 28, 1999

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The committee met, pursuant to notice, at 2:30 p.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Lautenberg, Smith, Bennett, Thomas, Crapo, and Baucus.

### OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Good afternoon.

The purpose of today's hearing is to consider the nomination of Mr. George T. Frampton to be a member of the Council on Environmental Quality, which during the course of the afternoon will be called CEQ, I am sure, in many instances.

I am pleased to welcome everyone, and in particular our nominee, Mr. Frampton.

The CEQ was established in 1970 by the National Environmental Policy Act to review the impact of programs and activities of the Federal Government on the environment, and to recommend to the President national policies to improve the environment.

Mr. Frampton was appointed acting Chair of the CEQ upon the departure of the then-Chair, Katie McGinty, in November 1998. Before joining CEQ Mr. Frampton worked as a private attorney and environmental consultant. From 1993 to 1997 he had what I consider to be one of the best jobs in the U.S. Government, Assistant Secretary of Interior for Fish and Wildlife and Parks.

And if you didn't enjoy that job, you are a hard man to please. [Laughter.]

Senator CHAFEE. Prior to that he was President of the Wilderness Society. From 1976 to 1985, Mr. Frampton was a partner in a Washington law firm. During the period from 1979 to 1980, he was Deputy Director and Chief of Staff of the Nuclear Regulatory Commission's investigation into the Three Mile Island nuclear accident.

Among his experiences, he clerked for the Honorable Harry Blackmun on the U.S. Supreme Court in the 1971-1972 session. He received his B.A. in Physics and Philosophy from Yale, his M.S. from the London School of Economics, and his J.D. from Harvard Law School.

Now, anybody who went to Yale undergraduate and Harvard Law School, I am sure, is destined for greatness.

[Laughter.]

Senator CHAFEE. Mr. Frampton has an impressive background. He is well qualified to be Chair of CEQ. This position poses a challenge that I am confident he is prepared to face. I look forward to hearing what our nominee has to say about his background and what he hopes to accomplish.

Senator Baucus is not here, and I understand that Senator Crapo—you have to preside at 3, as I understand it?

Senator CRAPO. Yes, one of my opportunities that I have.

Senator CHAFEE. OK. If you have a statement and would like to ask a question, something to that effect, go ahead.

Senator CRAPO. I don't have a statement, but I would like to ask questions. Would you like me to do that?

Senator CHAFEE. I think so. I'm going to get back to Senator Bennett and Senator Thomas, but you have a peculiar situation and we want to accommodate you.

Senator CRAPO. Well, thank you, Mr. Chairman, I appreciate that.

Mr. Frampton, welcome. I always like to see a Harvard Law graduate come before the committee.

As you know, I ended up as a freshman here, being called to serve as the Chairman of the Subcommittee on Fisheries, Wildlife, and Drinking Water, and I am interested in your perspective on why you feel that comprehensive reform of the Endangered Species Act failed in the last Congress. Do you have a feel for that?

Mr. FRAMPTON. Well, Senator, I think perhaps other members of the committee could answer that better than I could. I would just say that, as I think you know, I worked on this issue at the Interior Department for 4 years, began a partnership with the Western Governors Association, Governor Levitt of Utah, in 1993 to try to craft a consensus proposal with WGA and the Administration, and I think we did produce a proposal which became one of the bases for the committee's own deliberations and negotiations over the Kempthorne bill that was reported out by the committee, which I thought was a bill that, obviously, we hoped would move through the Senate, and perhaps it just ran out of time. But it seemed to me to be a bill that was a good consensus reform effort that would improve the act and had a lot of support from the regulated community and from the Administration.

As I said to a number of members of the committee, I would certainly be delighted, if I am confirmed as Chair of CEQ, to work to try to see whether it is possible to bring that kind of a consensus bill back this year.

Senator CRAPO. Do you feel that we need to have comprehensive reform of the Endangered Species Act?

Mr. FRAMPTON. Well, Senator, I will say this, that I think the Administration in the last 6 years has really pushed the envelope to try to develop new ways to make the Endangered Species Act work, particularly on private land, in using voluntary agreements with land owners in which State and local governments are involved. So I think we have taken this a long way, and it is working now. But there are concerns that some of the administrative re-

forms that the Administration has pioneered and put into place may be vulnerable, that those should be put into the statute.

So I think there is a need for a sort of centrist consensus, a legislative effort, which simply codifies and perhaps takes a step forward on some of the directions that have been done over the last few years administratively. I think that need is out there.

Senator CRAPO. I think I know the answer to this question, but I just want to be sure. Did you support the Kempthorne bill, the committee bill that actually came out last Congress?

Mr. FRAMPTON. I was actually out of the Interior Department, but I believe the Administration did support that bill; to what formal extent I am not certain, but certainly we were very happy with that bill. There were things that we would have liked to have had different, but we really hoped that that bill—we worked hard on it for 4 years—would pass the Senate and become a vehicle for eventual Congressional action.

Senator CRAPO. Did you have a personal position on that bill? Did you personally support it?

Mr. FRAMPTON. I personally worked very hard, not only myself but the people working directly for me, my deputy and counselor and special assistant, to take that bill from its inception with the WGA staff, right through the WGA and into the committee process. So that was something that I thought personally could be—I thought we had just about hit the sweet spot of ESA reauthorization with that bill.

Senator CRAPO. Well, as we try to work on Endangered Species Act issues this year, can we be assured of your cooperation in working with us to find a path forward?

Mr. FRAMPTON. Absolutely.

Senator CRAPO. In your testimony you mention that the CEQ has developed a new paradigm for the Endangered Species Act. It seems to me that if the CEQ is in a position where it is developing a new paradigm, or having to deal with creating a new paradigm, that that's further indication that reform of the act is really necessary. Would you agree with that?

Mr. FRAMPTON. Well, I would just say that I'm not sure that it's CEQ. CEQ is important to this, but it's really the departments and agencies that administer the law that are principally involved in the new paradigm.

But as I said, I think that to encapsulate in legislation and to consolidate the new paradigm, legislation is very important.

Senator CRAPO. I see that my time is running out.

As the chairman of the subcommittee that will be working on this issue—and you may not be able to answer this question right now, but if you have any insight, I would appreciate it—could you give me any advice as the chairman as to the direction you think we ought to take as we seek to reform the Endangered Species Act?

Mr. FRAMPTON. Well, Mr. Subcommittee Chairman, I would be very hesitant in my current position to undertake to give you any advice. But as I've said, I think that the Kempthorne bill represented the culmination of a very good process and had a lot of support, and if there is a realistic possibility of going forward in the next 2 years with this, I would think that would be an ideal place to start.



Senator CRAPO. All right. Well, thank you very much. I notice that my time has expired—

Senator CHAFEE. If you have another question, you go ahead. We want to accommodate you. I know that you are due there very quickly. If you have a couple more minutes, go ahead.

Senator CRAPO. I do just have maybe another question or two, and I do appreciate the Chairman's willingness to help out on this. In fact, maybe I will just conclude with a comment.

We do want to look at this very closely and see where we can move. As you know, there are a lot of issues related to the Endangered Species Act where it was hard to find that "sweet spot" that you were talking about, where we could move forward. We are going to be trying to do that again, and I would welcome the opportunity to work with you to be sure that we do as much as possible in that regard.

And in that context, I guess my last question would be this. If confirmed, are you in a position from the CEQ to play a leadership role from the Administration's perspective in helping us to work on this issue?

Mr. FRAMPTON. Senator, I would certainly undertake to do that. I have to say that my philosophy about CEQ is that the kind of leadership that it should exercise is to help the people who actually implement programs and policies to do their jobs. So I would want to engage you and the subcommittee and the committee on these issues not just as a CEQ function, but with the people from the Interior Department and National Marine and Fisheries Service and other Federal agencies that have a working group that worked on this over the last few years.

Senator CRAPO. Thank you, Mr. Frampton.

Mr. Chairman, again, I appreciate your cooperation. As you know, one of the opportunities that freshman Senators have is to preside over the Floor when assigned, and that's my opportunity right now. Thank you very much.

Senator CHAFEE. Well, seize upon your opportunity.

OK. Fine.

Senator BAUCUS?

Senator BAUCUS. Mr. Chairman, are we speaking or are we questioning?

Senator CHAFEE. I think now we will go back to the statements.

**OPENING STATEMENT OF HON. MAX BAUCUS,  
U.S. SENATOR FROM THE STATE OF MONTANA**

Senator BAUCUS. Mr. Chairman, I will just submit mine for the record.

First let me congratulate and welcome Mr. Frampton. As you know, Mr. Chairman, he has a wide variety of experiences, from Assistant Secretary of Interior for Fish and Wildlife, to head of the commission that was examining Three Mile Island. It's a wide variety of deep experience and background, and he is eminently qualified for the job.

My issues—I have many, but one that I am going to want to explore with him at some time, maybe today, is his ideas on how we can use Better America Bonds to help deal with growth and sprawl and open space generally in this country. That's not directly under

the purview of the Council on Environmental Quality, but it's something the Council will be involved with in some way.

In addition, I would urge Mr. Frampton—I know this will be the case, but just to remind him—to work hard on the balance between environmental protection and growth. We have to work together here. It's this whole thing; it's food on the table, plus enjoying clean air and clean water and open space. It's a balance, there's nothing more to it than that.

I look forward to working with you, Mr. Frampton.

I might say, Mr. Chairman, that I believe—have you introduced his son and his fiancée yet?

Senator CHAFEE. I have introduced no one.

Senator BAUCUS. Well, I will introduce someone, his son Thomas is here. Thomas, why don't you stand?

And Ms. D'Arista, his fiancée?

We are very happy to have you both here, and I know Mr. Frampton is very proud of you, and you are of him, too.

Finally, Mr. Frampton, in wishing you good luck, I would just urge you to decide what it is that you want to be remembered for when you leave, and I'm going to be asking you that question, so you might be thinking about it.

[Laughter.]

Senator BAUCUS. Thank you.

[The prepared statement of Senator Baucus follows:]

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Thank you Mr. Chairman, and I would like to join you in welcoming Mr. Frampton back to this committee.

As you have noted, and as evidenced by his resume, Mr. Frampton brings to this position vast experience in environmental issues, ranging from Assistant Secretary of Interior for Fish and Wildlife to Chief of Staff for the Nuclear Regulatory Commission's investigation into the Three Mile Island nuclear accident.

With our ever-increasing awareness that environmental protection and economic growth go hand in hand, the Council on Environmental Quality will need a person with his breadth of knowledge to help shape and coordinate Federal environmental programs.

What was clear in 1970 when the Council was established is even more important today. Growing demands to use land and water for residential and business growth put pressures on our valued and limited resources.

Growth is an important issue in my State of Montana. Montana is the least metropolitan State in the country, yet we grew faster than the rest of the country—a 10 percent increase—in the 1990's. Last year, our State Environmental Quality Council set up a Growth Subcommittee to investigate the issues that arise from growth.

Although sprawl does not fall into the traditional NEPA role of CEQ, the Council can play an important role in coordinating the Federal agencies on this issue.

In addition, I am interested in hearing your thoughts on how the Administration's Better America Bonds proposal could be used to help communities deal with growth. I believe that it is a very useful concept and one I intend to pursue.

I look forward to hearing from you this afternoon, Mr. Frampton.

Senator CHAFEE. Thank you.

Senator Thomas?

**OPENING STATEMENT OF HON. CRAIG THOMAS,  
U.S. SENATOR FROM THE STATE OF WYOMING**

Senator THOMAS. Thank you, Mr. Chairman.

Welcome, Mr. Frampton. Since coming to the Senate I have been particularly interested in the Council on Environmental Quality.

As a matter of fact, for 2 years we had an oversight committee on energy in which we spent a great deal of time with the Council.

It was established in the 1970's to review the impact of Federal programs and activities on the environment. Today, the agency has a much broader role in developing Federal land management policy. In fact, throughout President Clinton's time in office, CEQ has been more powerful than all the other Federal land management agencies put together. Although CEQ claims it is only advisory and does not set policy, nothing could be further from the truth.

I am particularly interested in Mr. Frampton's views on the role CEQ can play in resolving issues regarding the National Environmental Policy Act. It has been designed to ensure that environmental impacts of proposed Federal actions are considered and minimized by Federal agencies. Although the process sounds simple and quite reasonable, NEPA has become a real problem for public land users throughout Wyoming and throughout the west. The statute that was supposed to provide for additional public comment and input has instead become an unworkable and cumbersome law.

The current NEPA process takes too long, costs too much money, is being used to delay and stop many activities on Federal lands designed for multiple-use projects. From timber salvage sales to the renewal of grazing permits on BLM lands, NEPA is used to delay and frustrate the efforts of public land users who rely on these areas for economic survival.

Let me make it clear: I am not opposed to the efforts to review environmental impacts, but there must be something done in a reasonable and straightforward manner that does not serve to hinder reasonable multiple use activities. Unfortunately, in my repeated efforts to engage CEQ, making reasonable reforms to NEPA, and looking for answers to many problems, the agency has been of little help in the process. On several occasions I have met with Katie McGinty, past Director, to discuss NEPA. I have written numerous letters to the agency about the problems with the law. In 1995 we wrote a 13-page letter, with Larry Craig. I got a letter that basically said, "I am open to your ideas. Thank you for your letter." That's all I ever heard.

As you know, we wrote a letter last year, and 9 months later, after you came, we got a letter acknowledging receipt; no response, no activity, nothing substantive to come from CEQ.

So these are the kinds of experiences that I've had, and I don't think I'm the only one.

So I am very interested in finding some solutions to make NEPA work. I think that is the responsibility of CEQ. Perhaps we made a mistake when we combined the two activities and made being advisory to the President the major task.

So I look forward to your testimony and I have a number of questions that I might ask. Thank you.

[The prepared statement of Senator Thomas follows:]

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM THE STATE OF WYOMING

Thank you Mr. Chairman for holding this hearing today regarding the nomination of George Frampton to become Chairman of the Council on Environmental Quality. I look forward to hearing Mr. Frampton's testimony and discussing with him his views on the role of CEQ.

Since coming to the Senate, I have been particularly interested in the Council on Environmental Quality. Although the CEQ was established in 1970 to review the impact of Federal programs and activities on the environment, today the agency has a much broader role in developing Federal land management policy. In fact, throughout President Clinton's time in office, the CEQ has been more powerful than all of the Federal land management agencies. Although the CEQ claims it is only "advisory" in nature and does not set Administration policy, nothing could be further from the truth.

I am particularly interested in Mr. Frampton's views on the role CEQ can play in resolving issues regarding the National Environmental Policy Act (NEPA). NEPA was designed to ensure that the environmental impacts of a proposed Federal action were considered and minimized by the Federal agency taking that action. Although this process sounds simple and quite reasonable, NEPA has become a real problem for public land users throughout Wyoming and the West. A statute that was supposed to provide for additional public comment and input in the Federal land management process has instead become an unworkable and cumbersome law.

The current NEPA process takes too long, costs too much money and is being used to delay or stop many activities on Federal lands designed for multiple use. From timber salvage sales to the renewal of grazing permits on BLM land, NEPA is being used to delay and frustrate the efforts of public land users who rely on these areas for their economic survival. Let me be clear, I am not opposed to efforts to review the environmental impacts of proposed actions on Federal lands, but this must be done in a reasonable and straightforward manner that does not serve to hinder reasonable multiple use activities.

Unfortunately, despite my repeated efforts to engage the CEQ in making reasonable reforms to NEPA and looking for answers to many of the problems regarding the law, the agency has been of little help in this process. On several occasions I met with Katie McGinty, past Director of CEQ, to discuss NEPA, have written numerous letters to the agency about the problems with the law and have discussed this issue at length with other Federal land management agency officials, but to no avail. The problems with NEPA implementation continue to grow and the frustration of public land users continues to increase.

Mr. Chairman, I am very interested in finding solutions that will allow the NEPA process to work properly. I hope Mr. Frampton will work with me to find the answers that help us resolve many of the current problems regarding NEPA. The status quo is unacceptable, and I expect the CEQ to step-up and fulfill its role as the primary agency designed to address issues involved with NEPA.

Thank you Mr. Chairman, I look forward to hearing the testimony of Mr. Frampton.

Senator CHAFEE. Thank you, Senator.  
Senator Bennett?

**OPENING STATEMENT OF HON. ROBERT F. BENNETT,  
U.S. SENATOR FROM THE STATE OF UTAH**

Senator BENNETT. Thank you very much, Mr. Chairman. I am going to have to leave as well for the Appropriations Committee, so I will submit questions to Mr. Frampton in lieu of asking them here.

I want to make a few comments for the record.

Like my friend from Wyoming, I've had less than satisfactory experience with CEQ, but to use a Biblical phrase, "There arose in Egypt a Pharaoh who knew not Joseph." Everything was different. I have hopes—while Mr. Frampton clearly has many views that are different from mine, I have hopes that his administration of this agency will be like that new Pharaoh, and that we will have a greater degree of openness and communication and cooperation than we've had before, and I have strong reason to believe that will be the case.

I worked with Mr. Frampton in his position at the Interior Department. He came to Utah on occasion, which probably was not his favorite thing to do, but he took his assignments very seriously. We were always able to get an answer from him when we wanted

something, and even when the answer was no and we wanted it to be yes, it was very straightforward and the lines of communication were kept open. I have every reason to believe that will be the case now at CEQ, and I look forward to that change.

I would ask you if I might, Mr. Frampton, before I leave, do you have any knowledge of any "stealth national monuments" that are being considered anywhere in Idaho or Arizona or Colorado or someplace that you might want to take this opportunity to tell us about in advance?

[Laughter.]

Mr. FRAMPTON. Senator, I have no knowledge of any stealth monuments. The only monument proposal that I am aware of is a very large blip on everyone's radar screen, which is the proposal that Secretary Babbitt is advancing or trying out in a series of public meetings——

Senator THOMAS. This is on the Arizona strip?

Mr. FRAMPTON. For Arizona, the area in the northwest corner of the Grand Canyon National Park, the Arizona Strip proposal. What I know about that is what I read in the newsclips and from the hearings and the other work that the Interior Department has done to put the proposal forward for public comment and criticism and reaction.

Senator THOMAS. Mr. Chairman, Mr. Frampton knows full well that history; he lived through that whole thing with us, and I think he's smart enough to realize that that's not something the Administration should try to do again. I think it was a shameful period in our history, where the Administration did something strictly ex parte with one group, while at the same time doing everything they could to keep the "bad guys" uninformed and in the dark. And as one of the "bad guys," whose principal sin was that I was elected by the people of the State of Utah, I resented that action on the part of his predecessor, and I made that very clear to her in previous hearings.

So I intend to vote for Mr. Frampton's confirmation with some enthusiasm, based on the experience we have had—conversations we have had privately. He has been good enough to come by my office and we've talked through some of these issues, and I think this is one of the President's better appointments. I am happy to support it and look forward to working with him very closely.

Senator CHAFEE. Thank you very much, Senator.

Mr. Frampton, before you give your statement, I just want to say that I listened very closely to the problems Senator Thomas raised, and I found them disturbing. Now, that wasn't on your watch, so you are not the person involved, but obviously you're not going to be able to satisfy every Senator on this committee. But I certainly would expect you to go the full distance in responding accurately to questions—in this case, from Senator Thomas, or if he wants to get together with you, you should make yourself available, because this committee is very responsive to how its members feel about situations.

Again, I'm not sure that you can necessarily satisfy Senator Thomas, but you certainly have to make a determined effort to do so. And not just Senator Thomas; anybody on either side of this committee.

And maybe at the end of the period, we can have for you glowing reports from Senator Thomas just like Senator Bennett gave. We'll give you a couple months.

[Laughter.]

Senator CHAFEE. All right. Why don't you proceed with your statement?

**STATEMENT OF GEORGE T. FRAMPTON, NOMINATED BY THE  
PRESIDENT TO BE A MEMBER OF THE COUNCIL ON ENVI-  
RONMENTAL QUALITY**

Mr. FRAMPTON. Thank you, Mr. Chairman.

Mr. Chairman, Senator Baucus, distinguished members of the committee, it is an honor to appear before you as the President's nominee to be a member and Chair of CEQ. I have submitted a written statement and I will certainly try to keep my oral remarks very short, since we seem to be well into the questioning and dialog already.

Six years ago, when I came before this committee as a nominee to be Assistant Secretary of Interior, I said that if confirmed I thought that you would find me a reasonable and constructive partner with the Congress. And I believe—at least I hope—that I lived up to that trust, having been confirmed, in the 4 years that I spent at Interior.

I think that work was good preparation for CEQ because a great deal of what I did at the Interior Department involved building teamwork and consensus, trying to get agencies—just the agencies within the Interior Department—to work together, something that was not always easy, but more importantly, to get the various Federal departments working together, and for the Federal Government to begin to work more with States and local governments and stakeholders in new kinds of partnerships. Those were the kinds of projects that I worked on: Everglades restoration, where I chaired a Federal-State task force with seven Federal departments; Exxon Valdez oil spill, where I served on a trustee council, which was a State-Federal partnership; plus my efforts to restructure the Endangered Species Act to use voluntary agreements with local governments and landowners, from timberland owners in the northwest and southeast to the counties of San Diego and Riverside in Southern California.

In fostering those kinds of partnerships, which I think is the direction in which our environmental policy has got to go, CEQ really has to play an indispensable role. CEQ was created by Congress in 1969 in part to advise the President on the long-term direction of environmental policy; but equally important, and especially critical today, to coordinate the environmental work of the Federal family, to make sure that Federal agencies speak with one voice, work together, and referee disputes among them.

Even more important, CEQ is charged with a broader mandate to make sure that in the implementation of our environmental programs, economic and social imperatives would be fully taken into account. Sound environmental policy that was broad-based and balanced and based on good science—I think that was Congress' vision in 1969.

A parallel vision that Congress sought to advance in NEPA was to make sure Federal agencies would make important decisions affecting the environment in a democratic way, and only after a thorough examination of the impacts of alternative courses of action. Both of these visions—the vision of coordination and balance, and the vision of informed democratic decisionmaking—were quite prescient for 1969, especially when you consider that EPA hadn't even been created at that time, which seems hard to believe now. But they remain the cornerstones of the Nation's environmental policy today.

My vision, in response to Senator Baucus, my idea of the challenge for CEQ going forward, is no more or no less than what I perceive Congress' vision to have been in 1969: first, to give farsighted but realistic advice to the President and his advisers and the Cabinet about the future direction of environmental policy; second, to coordinate the implementation of environmental programs, but to do so not just within the Federal family, but today that has to be with the States and local governments and private stakeholders; and third, to make sure that we have a process of environmental decisionmaking that is balanced, well informed, and democratic.

I would like to just conclude, Mr. Chairman, by saying that in the last 6 years, I think that this Administration has compiled a strong record of environmental protection, as good as that of any in history, and presided over the strongest economic recovery, probably, in the 20th century—peacetime recovery, at least.

So there shouldn't be any reason to debate any longer whether rigorous environmental standards can go hand-in-hand with economic progress. Recent history has proven that they can. And I say that very emphatically, without any tinge of partisanship, because you, Mr. Chairman, as one of the greatest environmental statesmen of the Senate, know much better than I that the Republican Party has been at least as identified with environmental issues over time as the Democrats, and that most of what we have accomplished in the environmental field over the last 30 years truly has happened only when there has been bipartisan support for it, and I embrace that tradition. I am proud of the role that CEQ has played in that tradition. I am proud of the role that NEPA has played in that tradition, and I hope that to the extent that that's not working well, Senator Thomas, that I can help improve it; and I hope that in furtherance of that tradition, that if confirmed, I will be able to work with the Congress in a bipartisan tradition in trying to address the environmental challenges we face as we go into the next century.

Thank you.

Senator CHAFEE. Well, thank you, Mr. Frampton, for those kind comments. I think they are accurate. People forget that the great mass of environmental legislation pouring through here in the early 1970's was all signed by President Nixon—that is the Clean Air Act, Clean Water Act, Endangered Species Act, all that early 1970's legislation. But it came about, just as you said, in a bipartisan fashion, Senator Muskie being the chairman of the subcommittee that Senator Crapo is now in charge of.

Senator Lautenberg, do you have an opening statement that you would like to make?

Senator LAUTENBERG. Mr. Chairman, I will submit my statement for the record.

[The prepared statement of Senator Lautenberg follows:]

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Mr. Chairman, am pleased that we are having this hearing today to confirm Mr. Frampton to be the new Chair of the Council on Environmental Quality. This is an important position, and Mr. Frampton is well qualified for this post, as his record attests.

Mr. Frampton is certainly no stranger to the issues of interest to this committee. He has worked in the private sector both as a partner in the law firm of Rogovin, Stern & Huge, and as president of the Wilderness Society, a non-profit organization devoted to preserving wilderness and wildlife, from 1986 to 1993.

He also has extensive experience within the Federal Government—as Assistant Secretary of the Interior for Fish and Wildlife and Parks. In this position, he was responsible for the National Park Service and the U.S. Fish and Wildlife Service. Moreover, since the departure of Katie McGinty, he has been serving as the Acting Chair of CEQ, and knows well what this position entails.

I look forward to hearing his statement today, and response to any questions we might have, and to working with him over the next 2 years.

Senator LAUTENBERG. I just want to welcome Mr. Frampton. I am encouraged by his lengthy experience and his knowledge of the issues, and his interest in improving the functioning of CEQ and the whole environmental agenda. So I welcome Mr. Frampton and hope that we will be able to move with dispatch here. And if there are any issues that ought to be discussed, I hope that they will be discussed separately from just the confirmation of his well-qualified background and his knowledge generally, that we will get confirmation done and then get on with the committee's business.

Senator CHAFEE. Thank you, Senator.

Senator Smith, do you have an opening statement?

Senator SMITH. No, Mr. Chairman, I will wait for the questions. Thank you.

Senator CHAFEE. All right.

I think I will start down the list of questions now.

Mr. Frampton, 2 weeks ago a Federal District Court Judge issued an order prohibiting the Department of Transportation from starting construction of the Wilson Bridge, and the claim was that they didn't comply with NEPA, they didn't comply with the Clean Air Act, they didn't comply with the National Historic Preservation Act. And it is evident that the documents that they submitted on this were woefully inadequate, and even EPA indicated that the environmental analysis for the construction was unsatisfactory.

What are you going to do to see that this doesn't happen again, either with respect to this bridge or any other? It seems to me that this is a very costly—and I'm not necessarily talking dollars, I'm talking time—error that was made, and the Court had no trouble finding that the preparation was totally inadequate.

Mr. FRAMPTON. Senator, I have not read the Court's decision, so I cannot comment on the specific issues. I can only say that I wish the CEQ had been a little bit more on top of this EIS process over the last couple of years because, certainly, the Court's decision is pretty emphatic.

I think that we obviously need to pay more attention to this issue. In fact, with respect to issues that relate to highways and bridges, in the TEA-21 legislation there is a provision that CEQ



was instrumental in getting in the legislation that calls on DOT to have a more coordinated review, and I think there is a process there that we are working through. We will invest a fair amount of time and energy in trying to see that that process is improved.

With respect to the bridge itself, the Justice Department, as I understand, has taken the lead in trying to bring the Federal agencies together to figure out the fixes that need to be made, how those fixes can be made quickly and in a realistic timeframe, so that we don't face the problems that I have read about in the newspapers with respect to the lifetime of the bridge for heavy vehicles. The Justice Department has a sort of "emergency task force" looking at that issue and how we can do it right and do it quickly.

Senator CHAFEE. Well, that was one of the questions I had. You are absolutely right, what you said about TEA-21 and the streamlining provisions. You are getting geared up for that now in the CEQ, are you?

Mr. FRAMPTON. Yes, Mr. Chairman, and I realize that this committee is having hearings on that subject. It has taken some time for the Department to move forward. They went around the country, listening to people on all the issues of TEA-21, which is a pretty complicated statute, but I think they are now making some progress. There is an options paper on coordinated review of transportation projects that is out, and hopefully some decisions will be made in the next few weeks about specific proposals. We intend to devote some time and energy to try to push that process forward.

Senator CHAFEE. OK. A final question. I have heard some concerns raised about the Administration's plans to restore the Everglades, something you've been involved with. The complaints are that the Administration doesn't go far enough. If I remember, they are talking in terms of \$8 billion, aren't they? Is that the right figure?

Mr. FRAMPTON. About \$7 billion, of which roughly half or a little less than half would be a Federal share, over a period of approximately 20 years, Senator. I believe that's the number.

Senator CHAFEE. And I think that we have a water resources bill here, and we will do another one next year, particularly because of the Florida Everglades.

Are you paying attention to what these scientists say? I suppose you can get scientists to say anything on any side of the issue.

Mr. FRAMPTON. Senator, I am personally paying attention because the statute requires that the restudied plan come to Congress by July 1 of this year.

I think that in the development of this plan, which has been a monumental effort of getting stakeholders together and basing it on the broadest possible science, that a very good job has been done. However, we have one last opportunity to make sure that this is the best possible plan between now and the first of July, and I think that not only Federal scientists but outside scientists need to have one last shot at this plan. I am confident that we are going to have a very good plan, come July 1st.

Having said that, however, like many long-term plans, some of the details here will be in the implementation. So it's not just getting a good plan—and I am confident we will have one—it's setting up a process of independent scientific peer review, which Secretary

Babbitt has set in motion, over the next five to 6 years as the final designs are developed and the implementation begins, that there is constant outside vetting of that activity. I think that is equally important to the outlines of the plan that we will be submitting July 1st.

Senator CHAFEE. All right.

Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Frampton, just briefly, on the first question raised by the Chairman, namely, the Wilson Bridge, does CEQ review that EIS?

Mr. FRAMPTON. I don't know the answer to that, Senator. I will have to get back to you.

Senator BAUCUS. This is not the first time. I have come up with something similar to this in my State of Montana. It's a vexing problem. Generally, in my opinion, it is because the relevant departments—the State Department of Transportation, and ironically, in this case it could be the Federal Highway Administration and DOT—just don't do a good job in preparing a proper EIS. In Montana, for example, the State did an improper job; somebody litigated it, and they had to go back and do it all over again. If you do it right the first time, then you avoid these kinds of problems. It just happens constantly.

I know there is a problem with the EIS procedure, but I must say that a lot of the problem with the Federal agencies is that they just don't do a good job in the first place. If they did a good job in the first place, then they wouldn't consequently be having these kinds of problems. That happens time and time and time again, particularly with respect to highway projects.

My question really revolves about the Better America Bonds. I think this is a very good concept, one that has lots of potential, and I'd like your thoughts on how you think it should be shaped or formed, or some of the divisions that we should be looking at, or some of the ideas that you might have with it.

Obviously, growth and sprawl issues are nationwide. There are problems in urban America, but there are very much problems in rural America, as well. I am very sympathetic with small problems in metropolitan areas, but I am also very sympathetic with a lot of the open space issues that occur in the western States. I can certainly speak for the State of Montana.

As you know, this is a bonding authority that the States would have. Some have suggested that EPA allocate the amount of bonding authority to be available among the States. Frankly, I am a little nervous about that; I think it smacks too much of "Big Brother" Federal Government, and there are lots of other ways to address the allocation issue.

But your thoughts on how we can make this work and work well?

Mr. FRAMPTON. Senator, I think this is a very exciting concept, and it has found a lot broader support than even I expected that it would. I think it is one of a number of things we are doing, like the Salmon Fund proposed in the budget, and the Clean Air Partnership Fund, to try to help local and county and State government take the lead on these issues.

So it is responsive to the idea that we can't do everything by regulation, and we have to put some resources into the local effort.

Let me just say a couple things about how I think this would work best.

No. 1, Better America Bonds is aimed at issues of livability and smart growth, but not just at the suburbs. It is also aimed at the cities—

Senator CHAFEE. Mr. Frampton, I'm going to have to ask you to hold up here. We are now in the last part of a vote. Apparently it's a motion to instruct the Sergeant at Arms.

Senator BAUCUS. I could go over a little later, after I finish this.

Senator CHAFEE. What in effect I was going to propose is to ask our members to go over and vote and come right back, so we will do that now.

Senator CHAFEE. I would ask Senator Smith and Senator Thomas, if you would, come right back because we want to give you a shot at the questions.

Mr. FRAMPTON. Senator, this is aimed at the inner cities as well as the suburbs, No. 1.

No. 2, I think it is important that the money available—which at the levels requested by the Administration would generate close to \$10 billion in bonding authority over 5 years—would be used for each of the designated purposes, brownfields, open space, recreation, and clean water.

I also think, to respond to your comment about EPA, EPA is the conduit for receiving proposals from cities and counties to do the bonding, and the Administration proposed it that way because EPA is doing brownfields and clean water issues and has relationships with the cities and counties. But EPA is not going to be the deciding agency. This will be an interagency program, and there will be an interagency committee that looks at the bonding requests and make judgments—if there is an overapplication for requests, who will get what.

Senator BAUCUS [assuming the chair]. So how did you handle the oversubscription or overapplication?

Mr. FRAMPTON. We don't have specific criteria, but the proposal is to make it competitive and try to create an interagency process that—obviously, geographical distribution will be important to some extent, but a process that tries to look at whether the proposals are part of a good plan, part of a comprehensive smart growth plan, and also partly whether they really supplement existing resources that States and counties have; and then, which ones seem to be getting the biggest bang for the buck. To some extent, that is subjective.

Senator BAUCUS. Another problem is, what happens when there is a huge project? You don't want it to take up the lion's share of the bonding authority that is available nationwide and leave out some good smaller projects in other parts of the country.

Mr. FRAMPTON. These are issues that have been discussed internally to try to get a balance into the criteria for judging, but probably we won't finalize those unless and until Congress enacts the program.

Senator BAUCUS. Right.

Mr. FRAMPTON. But I think those are hard issues.

Senator BAUCUS. They are, but I am raising all these with you so that we can discuss them and flesh them out, so that there is general agreement among those who are interested in the program as to what those provisions should be. I just urge you—and I know you well—and others to be thinking about that, because I think this is a very exciting program and I am going to be developing my own proposal, and I would like those who are interested to consult with me, as I will with them.

Well, I think I had better get over and vote. The committee is temporarily in recess.

[Recess.]

Senator THOMAS [assuming the chair]. If you're prepared, we'll just go ahead. The Chairman will be along in a minute or two, since we've kind of fallen behind. I will take the prerogative of going ahead with some questions and we'll get started.

You mentioned in your statement, Mr. Frampton, you are going to be a member and Chairman. Who else are members?

Mr. FRAMPTON. There are no other members, Senator.

Senator THOMAS. Why not?

Mr. FRAMPTON. Well, I am not an expert on the history of this, but my understanding is that since the mid-1980's, basically Congress has provided each year in the appropriations bill that the power of the Council is vested in a Chair, so it has been a one-person Council for 10 years or more. That has been something that, I guess, has been accepted by both Administrations and Congresses.

Senator THOMAS. The CEQ is combined with the White House Office of Environmental Policy, and I think this has obviously expanded the role of establishing environmental policy within the Administration.

Rather than being a policy arm, shouldn't CEQ be an independent agency to do this coordinating that you talk about?

Mr. FRAMPTON. Well, at the beginning of the Clinton Administration, Senator, there was an effort or an initiative to create an Office of Environmental Policy that would be different from CEQ, but that effort was abandoned. My understanding—again, I'm not an expert in the history—is that now there is CEQ, the Council on Environmental Quality. Technically in the statute there is also an Office of Environmental Quality, which was also provided for in 1970, so that's the original formulation, is what we have now.

I think that CEQ is somewhat different than the other policy councils at the White House because it does have a Senate-confirmable Chair, but on the other hand it is not, obviously, a completely independent agency. One of the purposes of CEQ was to give advice to the President about environmental policy, and another was to actually coordinate the Administration's environmental policy.

So I think it exists in a place in between an independent agency and advisory role.

Senator THOMAS. It is also charged with the responsibility of really administering and coordinating NEPA, was it not?

Mr. FRAMPTON. That is correct.

Senator THOMAS. And how many new changes and policies and rules and adjustments have there been made in the last 20 years?

Mr. FRAMPTON. Well, over the last 20 years CEQ has issued guidance under the rules——

Senator THOMAS. Under new rulemaking in 20 years? I don't think so.

Mr. FRAMPTON. Not new regulations. I think the regulations, by and large, have worked pretty well. What CEQ has done is write guidance under the regulations and the statute to respond to individual issues or problems that have——

Senator THOMAS. I guess I disagree with you some. You indicated a moment ago how you had to be responsive to the changes that have taken place since 1969 or whenever it was. The fact is, there have been very few in terms of administering this very difficult law, under quite difficult circumstances, and literally for 20 years the agency charged with administering it and keeping up-to-date rules has not issued any rules at all.

Mr. FRAMPTON. Has not made major changes in the regulations that were originally written, Senator.

I would say this, though, that I think that the ability to write guidance is a way to adjust to changing circumstances. You mentioned in your opening statement that you had found CEQ unresponsive in the past, and this is something that we discussed when I came to see you in your office. And one of the concerns you expressed was the need to amend the law or create a new policy on cooperating agencies. This was something, in your view, that even though CEQ had done positive things in the past, wasn't working very well.

I went back and looked into this after we met a couple weeks ago, and found that indeed CEQ had on occasion written letters to agencies, encouraging them to be more forward-leaning in getting State and local agencies in as cooperating partners, but we didn't have comprehensive guidance on that. So I asked that one be drafted, and it is in fact in interagency review and we're going to issue it.

I hope that through guidance, comprehensive guidance, we can deal with the problem that you identified, I hope in an effective way, and be responsive to you and your concerns on those issues, without necessarily rewriting the statute or the regulations. We will see how that——

Senator THOMAS. What is your opposition to rewriting? If you agree with the cooperating agencies, why shouldn't that be the standard for each of these operations? Why should we be selective? We had to work our fannies off to get it for the Yellowstone winter use. Now, when they want it in Medicine Bow, why shouldn't the State and the counties be entitled to be cooperating agencies?

Mr. FRAMPTON. Well, as I said to you, when we talked—I think to try to rewrite the statute or the regulations to require that, in every case, hundreds and hundreds of EIS's a year, every single State and local agency that falls within the possible orbit automatically be included, is really sort of a top-down, one-size-fits-all approach, particularly in light of the fact that being a cooperative agency often costs the local government unit money——

Senator THOMAS. They aren't required to participate, and neither do you have to include everything. Maybe it ought to be their choice, rather than yours.

Mr. FRAMPTON. Well, I hope that by putting out new guidance in response to your concerns, and trying to put this policy of being very open to this and offering it—except in unusual cases—to every local government unit, that we can address the problems that you're concerned about that way. If it turns out that that really does not address the problems, then I think we can look——

Senator THOMAS. I just would hope we don't have to wait another 20 years to find that out. I think we've done this quite a little bit. We've found some times, certainly, when cooperating agencies had some expertise, and that's all they are in there for, is to share the expertise they have, which is defined.

On a different matter, we have been working on open space and so on, and of course livestock production plays a role in that. Do you think it is necessary that the renewal or the transfer of a permit is a major Federal action, for a grazing permit?

Mr. FRAMPTON. Well, I think that's an issue that, as you and I discussed, is the result of some Court action concern about whether the agencies need to do this. For a long time, the grazing permits—NEPA work was not being done on them, and now EAs need to be done on them, and the agencies——

Senator THOMAS. The Court has not ruled that the need to do it.

Mr. FRAMPTON. But I think there is a concern that without going through the process, we will be very vulnerable——

Senator THOMAS. So you are going to be driven by the threat of lawsuits rather than what's good policy?

Mr. FRAMPTON. No. My understanding is that the Administration is being driven by what it thinks it needs to do under the law.

Senator THOMAS. So you agree that there has to be a NEPA study for the renewal of an unchanged grazing license?

Mr. FRAMPTON. Well, my understanding is that the agencies are doing what the guidance from the Justice Department is telling them is the best practice. Now, when you say "unchanged," I think it may be that it being unchanged in going back to the beginning would not require an EA.

I'm not trying to deliver a legal opinion on this because I'm not that familiar with the legalities——

Senator THOMAS. You're avoiding my question.

Mr. FRAMPTON. Sorry.

Senator THOMAS. Do you think that the renewal of a 100-head lease that is unchanged, location, numbers, should have to have an EIS or an EA?

Mr. FRAMPTON. I would like to have the opportunity to respond to you in writing, because I think you're asking me in part a legal question, about the judgments that have been made about that. The agencies obviously feel that, with respect to leases on which there are changed circumstances, the NEPA work has to be done.

Senator THOMAS. What happens, as you know, is that the Forest Service, for example, isn't able to do it all, so we have to go into the budget; we have to put into the budget special language to say that it will be extended for a certain length of time so that the agency can do it; they claim that they don't have the money, they don't have the expertise. But your agency, which is responsible for making this thing work, has taken a hands-off position. I don't understand that.

Mr. FRAMPTON. Well, Senator, I don't think we have taken a hands-off position. I think that one of the important solutions to this would be not to do them all one by one, but to try to batch them so that you can do them in a much more efficient way, and then nobody gets delayed. And nobody is being harmed now under the current status quo.

And CEQ is working—and has worked and will work—hard with BLM and the Forest Service to try to push the idea of doing these in a batch—

Senator THOMAS. I appreciate what you are saying, but it doesn't give me much comfort to have you say, "Well, we'll work with them." They've been working with it for 20 years, had that long a time. We have referred it to them; nothing happens. It's discouraging. And then to have you come here, as a new face in an agency, and really say, "Well, we'll just do what we've been doing"—it would be really refreshing for you to say, "By golly, if there's something that ought to be changed here, we'll do it." But you haven't said that.

Mr. FRAMPTON. Well, Senator, there are two issues that you have raised that you raised with me in your office a few weeks ago. One was cooperating parties—

Senator THOMAS. And you have not responded to either one of them.

Mr. FRAMPTON. Well, I have tried to. What I am telling you today is that we have tried to set a world record in response by actually putting out a policy, getting a policy, writing it, and putting it out. And on the issue of grazing EAs, we're looking into what we can do to put more pressure on the agencies to try to batch these and do them by watershed or ecoregion instead of one at a time.

Senator THOMAS. I've taken too long.

That's what we had in our grazing bill. You can take a look at the whole area, but you don't need to take each one. I mean, it just doesn't even make sense.

Mr. FRAMPTON. I agree with that.

Senator THOMAS. And I understood that your agency—you act like you have to persuade them. I thought you were sort of in charge of coordinating this. You're not?

Mr. FRAMPTON. Well, we can't always instruct. Even within the Federal Government it takes a certain amount of consensus and suasion to change the way agencies work.

Senator THOMAS. I just have to tell you, I am impressed with your background but I'm not very impressed with your willingness to talk about making changes in something that, to most people, has been generally a little unsatisfactory. And I'm just being very candid with you. I don't think that's the kind of an approach that some of us would expect to see when a new person comes into this job.

Thank you, Mr. Chairman.

Senator CHAFEE [resuming the chair]. Senator Smith?

Senator SMITH. Thank you, Mr. Chairman.

Good afternoon, Mr. Frampton.

You come from a background, as I understand it—you were President of the Wilderness Society, you were an Assistant Secretary for Fish and Wildlife at the Department of the Interior, and

obviously those two areas are very much involved with animal protection and so forth, which surprises me. What surprises me is the Administration's insistence on the chemical testing initiative, which has raised the ire of many in the animal welfare community, and in my view, with justification. A, it's costly; B, it is repetitious and unnecessary in many, many cases.

I chair the subcommittee with jurisdiction over this and have some interest in it, but EPA is working on three of these initiatives. One is the High Production Volume, two is the chemical testing program, and three is the endocrine disruptive program in children's health. And each requires the industry to commit to massive toxicity testing.

So my question is, given all the concerns expressed, and the financial implications for both the industry and EPA, why continue this?

Mr. FRAMPTON. Well, Senator, I think what has raised some controversy about this most recently is the agreement between the Chemical Manufacturers Association, EDF, and EPA to do a large volume of testing of chemicals, and to put the resulting information out to the public on the Internet, which I think is a terrific voluntary information-based strategy.

Now, I think the announcement of that program several months ago has given rise to some misunderstandings about the actual impact this is going to have on animal testing with rabbits and so forth. In the first place, there is not an intent to increase testing or do testing with respect to chemicals for which we do have information already. So a lot of this program is simply gathering and coordinating existing information, making it available to the public.

Second, as a part of this, the Administration is committed to trying to make sure that the actual amount of animal testing is minimized; that alternatives are being sought; EDF and various Federal agencies—I believe that we responded in a letter to you on this recently—so we are very conscious of trying to make sure that a very, very good program, which has tremendous benefits for public health, does not necessarily result in an unnecessary amount of animal testing.

But ultimately, a certain amount of animal testing—we would like to get away from it altogether—but a certain amount of it is still the cost we pay for significant improvements in public health, for children and adults.

Senator SMITH. Still, though, the question is that there are a lot of these chemicals that you have significant and extensive data on, that are still being used. You haven't purged the list. I mean, I hear your testimony, and I've heard it before from others, but there is an extensive amount of testing that still goes on that is totally unnecessary. I don't think you're getting the right information in terms of what these chemicals are and how much data you already have—you know what they are, but in terms of the data that already exists, it's repetitious and unnecessary.

What about the final point on this? It is my understanding that you did meet with some animal welfare representatives who did raise some issues—eight, I think. Why have you not responded to those issues?



Mr. FRAMPTON. I have not personally met with the animal welfare rights folks on this over the last month or so, when I became aware of this. I know that issues have been raised to various Federal officials and to the Vice President and the President, but we have tried to respond by, No. 1, clarifying what it is that we are doing; and, No. 2, undertaking some efforts to make sure that animal testing for chemicals that do have to be tested is minimized.

Senator SMITH. Well, as a Senator with a staff, just be a little bit careful in your response, because your staff did meet and talk extensively. You said you didn't meet, but my staff——

Mr. FRAMPTON. I personally have not met.

Senator SMITH. All right. You should clarify that.

So I still think that there is more that we can do in this area, and I would ask you to look at it because I think you are going to find that there is extensive testing that is totally unnecessary, with a lot of data available.

Mr. FRAMPTON. Senator, I am very willing to look at the issue in more depth, personally and through my staff, to make sure that what we are doing to make sure that the testing is minimized is everything we can do.

Senator SMITH. All right.

Let me ask a couple questions on another subject.

On Superfund, Carol Browner said a little while ago that "Our experience on allocation is that it's a great tool; it should be part of Superfund." But this year EPA has taken the position that "fair share" should not be part of any Superfund legislation. Why the dichotomy here?

Mr. FRAMPTON. Well, Senator, I can't respond on the individual issue of the different position that she has taken. I would just say that we discussed this before, as well, because I know you are concerned about the Administration engaging on this issue. We do want to engage on the issue, but the situation is a little different, and I don't think anybody can fault the Administration's engagement over the last 6 years, certainly trying to reach agreement. I think Administrator Browner is as disappointed that comprehensive reform didn't reach agreement as you are, but we are in a situation now, as I said to you a few weeks ago, where the program is different than it was 6 years ago. Most of the cleanup decisions have been made. We have tried so hard to reach agreement, and we are still apart on issues; the people who are doing this at EPA and others in the Administration tell me, "If we're going to accomplish something, we want to try to focus on those limited but important areas where we do have agreement, which fit the current needs of the program." And if we could do that, perhaps—the things where there is consensus—we would be able to move forward on some of those issues where everybody wants to do things, brownfields and innocent purchasers and so forth.

Senator SMITH. Well, fair share allocation is a concept that has been around for a long time. It's not new, as opposed to joint and several liability, and it seems to me that in this position you should be able to answer the question yes or no. Do you support fair share allocation in Superfund, yes or no?

Mr. FRAMPTON. I am not a Superfund expert——

Senator SMITH. I don't think you need to be an expert. Joint and several liability means that everybody is liable at the site, regardless. There might be some argument—there is a big argument about how much. And the other is, you figure out how much each party owes, and they pay their fair share. I mean, there's nothing complicated about it.

Mr. FRAMPTON. Here is what I have to respond to you. I am not—there is some impression that Administrator Browner has said or testified that the Administration would be open to, or embraces, fair share allocation as opposed to joint and several liability, and I am not familiar with the specific statements but I think that EPA would say that if that's the impression that has been created, it's a misunderstanding, and the Administration is not in a position to agree to that. But again, some of this is in the details, and my understanding is that at the end of last year, we were still pretty far apart on some pretty major liability issues, and some other issues, as well.

Senator SMITH. We are, but you know, you were in support of reinstating the taxes, and doing it by picking winners and losers rather than fair share. I mean, the Administration has taken the position that de minimis municipalities, waste generators, and so forth should be out; others, those locked in consent decrees or those that have not settled one way or the other, PRPs, those people should not get out. So that's not fair. It becomes a fairness issue, as far as I'm concerned.

Mr. FRAMPTON. Well, I understand your position, Senator. I think the Administration would say that if we can agree, if there is consensus within the Congress and with the Administration, that it is fair to let some parties out, to exempt some parties, with de minimis liability, and we can agree on what is fair with respect to some people, but we cannot come to agreement on major liabilities with larger parties, then we ought to go forward and try to be fair to those people on whom we can agree what fairness is about.

Senator SMITH. What you're saying is, you're willing to be fair to some people and not to others, therefore it's not fair. I mean, that's the bottom line here. That's the argument we've been having with Ms. Browner and the Administration for years, that in order to really reform Superfund, we need to be fair to everyone; and that to be fair to everyone, whoever has the site, if you're a de minimis party or if you're a huge entity such as Mobil or Exxon or somebody like that, that whatever your fair share is is what you owe. And you're picking winners and causing others to be losers and saying, "Well, we'll be fair to these guys, but not fair to these guys." If you're not fair to everybody, then you're not being fair at all.

Mr. FRAMPTON. I think what is involved is some fundamentally different ideas about what being fair, especially to the large number of large parties, really means. I think what I'm saying is, I understand the Administration's position. Again, I'm not an expert on this. I know we failed to agree on this over the last few years, but if we can agree on being fairer than we are now, even by your terms, then maybe we should go ahead and do that because then we can legislate it.

Senator SMITH. Well, I don't think you're going to—I think the message needs to be taken back to EPA that the taxes on industry are not going to be reinstated in this Congress unless the program is fair, and I think that's the bottom line. And it is not fair the way it is now, and I wish we could get there. I regret that we're not, because I think that's the only way we're ever going to get the program fixed.

Thank you, Mr. Chairman.

Senator CHAFEE. All right. There are a couple of obligatory questions I will ask you, Mr. Frampton.

First, are you willing, at the request of any duly constituted committee of the Congress, to appear in front of it as a witness?

Mr. FRAMPTON. I certainly am.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

Mr. FRAMPTON. Other than what has been disclosed, no, Mr. Chairman.

Senator CHAFEE. Senator Thomas, do you have any further questions?

Senator THOMAS. I have a couple. I will try to do it quickly.

I guess I'm a little confused about the administration of NEPA. I get the impression from you and from your predecessor that one of the responsibilities there is to administer it and to coordinate it—I don't know anyone else who does—and yet, you don't do any regulations. You do rules and letters and guidance, none of which are subject to public review.

If it is your job to make it common and administer it, how do you do that?

Mr. FRAMPTON. Well, Senator, as you pointed out, the regulations that were written under the original act were, of course, subject to the usual public review process. My understanding is that in the past, when CEQ has issued guidance or advice on NEPA issues, that the practices varied, but certainly what CEQ tries to do is bring the Federal agencies—and if it hasn't in the past, I think it sometimes has, but certainly should in the future—bring the public and stakeholders into that process as well.

But I don't know anything else that CEQ does, as you said, that is regulatory or rulemaking. If we did, it would require, under the APA, another statute, public notice and comment period and so forth, Federal Register publication.

Senator THOMAS. Wouldn't it be a normal expectation that you would do rulemaking from time to time, as times change? You have mentioned three or four times in your testimony how times have changed, how the circumstances have changed, and yet, apparently, the regulations are OK for 20 years.

Mr. FRAMPTON. Well, I guess one way of looking at that is that the regulations have stood the test of time——

Senator THOMAS. If you agree with that, of course.

Mr. FRAMPTON. If you feel the program is not working, then I think that obviously one would look to regulatory changes. But I am not familiar in the last few years with any specific set of proposed regulatory changes that have been put forward under NEPA that are designed to make it work better.

I think the problem is really in the implementation, not in the regulations.

Senator THOMAS. I have not heard of any either, and I would rather like to hear of some.

We are having a hearing tomorrow on the Everglades. Have you seen the GAO report?

Mr. FRAMPTON. I have.

Senator THOMAS. What do you think of that?

Mr. FRAMPTON. Well, I think there is a genuine and legitimate concern that is expressed in the report about the lack of a strategic plan for the overall program, but I am not sure that the GAO examiners who worked on the report fully understood how much the restudy and surrounding processes which were created, which represent an enormous amount of consensus among a lot of parties, actually embody a strategic plan, or the fact that an actual strategic plan is in the process of being developed.

So I think that's a genuine concern, but I think that concern is being responded to.

Senator THOMAS. Is that what the restudy is for, to come up with a plan to spend the \$10 billion that they predict will be spent?

Mr. FRAMPTON. The restudy is a strategic plan of enormous breadth. What the GAO said is—I think the kind of strategic plan that was unthinkable 4 or 5 years ago—that anybody could develop that on a consensus basis. The GAO said, "Well, you need a consensus plan that goes much further, that looks at all the actors in south Florida who are doing everything. You need to broaden the scope of this plan." And to the extent that the restudy has to fit with other important things that are happening, I think that's right, and I think that some of that is going on, and that the people who worked on the report—the examiners themselves—don't appreciate how much of that is actually happening.

Senator THOMAS. Well, it's an interesting thing when the Park Service has a little over \$1 billion a year in their budget, \$6 billion in arrears, and we're going to spend \$10 billion here. It's an interesting study, in any event.

Thank you.

Mr. FRAMPTON. Thank you, Senator.

Senator CHAFEE. All right. Well, thank you, Senator.

Mr. Frampton, thank you very much for coming by and responding to the questions. I don't know if anybody asked for other questions, but if so, please respond swiftly if you can, in writing.

Mr. FRAMPTON. We will indeed, Mr. Chairman, thank you.

Senator CHAFEE. Thank you very much.

That concludes the hearing.

[Whereupon, at 4:13 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF GEORGE T. FRAMPTON, JR., ACTING CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY, EXECUTIVE OFFICE OF THE PRESIDENT

Mr. Chairman, Senator Baucus, distinguished Members of the Committee: It is an honor to appear before you today as President Clinton's nominee to be a Member and the Chairman of the Council on Environmental Quality.

Six years ago, I came before this Committee as the President's nominee to be Assistant Secretary of the Interior for Fish, Wildlife and Parks. I said I believed that,

if confirmed, you would find me to be open, fair, and a reasonable and constructive partner with the Congress. I also said that as an advocate in different professional roles throughout my career, I had based my advocacy on sound facts, fairness, practicality, and the importance of maintaining personal credibility.

You did vote to confirm me, and as an Assistant Secretary of the Interior from 1993 to 1997, I believe I fulfilled the trust you placed in me. I further believe that the insight and experience gained during my time at Interior help immeasurably in fulfilling the responsibilities I assumed upon becoming acting Chairman of CEQ 5 months ago.

Much of my work at Interior involved building teamwork and consensus—among agencies within the Department; among various Federal departments and agencies with different priorities and missions; and among State and local governments, private landowners, and other stakeholders.

One such undertaking was the Federal/State task force that developed a comprehensive restoration plan for the Everglades/South Florida Ecosystem, the largest ecosystem restoration ever undertaken in the United States. This 6-year effort, which enjoys bipartisan support at both the Federal and State level, is scheduled to come to fruition this June.

Another major success was our effort to develop a new paradigm for the Endangered Species Act, including the pioneering use of Habitat Conservation Plans with private landowners, and collaborations with State and local governments such as Natural Communities Conservation Planning Program (NCCP) in the Southern California counties of San Diego, Orange, and Riverside Counties. In addition, in partnership with Governor Leavitt of Utah and the Western Governors Association, I helped craft a reform proposal for the Endangered Species Act that became an important basis for the Kempthorne bill reported out of this committee.

As the lead Federal trustee in the Federal/State Exxon Valdez Oil Spill Trustee Council, I joined with then-Governor Wally Hickel of Alaska to forge a balanced, comprehensive program guiding the use of the civil penalty paid by Exxon to restore Prince William Sound and the Exxon Valdez spill area in South Central Alaska. This program, based on the best available science and broad public input, found wide support among Federal and State agencies, Native Corporations, fishermen, environmentalists, and local and Alaska residents.

Working with the Alaska Department of Economic Development, the U.S. Department of Energy, and the National Park Service, I also negotiated an agreement to locate one of the nation's first Clean Coal Technology Demonstration Projects adjacent to Denali National Park. Among the benefits of this innovative project are improved visibility and air quality. Without this agreement, the project would have foundered.

To cite just a few other examples: I was a principal in the collaborative effort with the Forest Service and the Department of Commerce to finalize the Pacific Northwest Forest Plan. I worked with the armed services to develop cooperative programs to protect habitat on military bases. With the State of California, the Corps of Engineers, and the Ports of Long Beach and Los Angeles, I led the effort to use port mitigation funding to purchase and bring into protective ownership of the State the largest remaining estuarine wetlands on the California coast. In Montana, Utah, and North Carolina, I oversaw the implementation of innovative habitat plans with landowners and county governments to protect endangered species.

While at Interior, I came to recognize that almost every important environmental or natural resource issue facing the Federal Government today requires coordination among more than one Federal agency or department. Most of these issues also demand close cooperation, and often a sustained partnership, with State and local government as well.

This is where the Council on Environmental Quality plays an indispensable role.

CEQ was created by the Congress in 1969 to advise the President on the long-term direction of environmental policy. But equally important—and especially critical today—was Congress' direction to coordinate the environmental work of the Federal family, and to oversee implementation of the National Environmental Policy Act (NEPA).

First, CEQ was to make sure that Federal agencies are working together, not at cross purposes, and to referee disputes between the agencies. Congress envisioned CEQ as a 'neutral' arbiter free of "agency bias"—that is, commitment to a particular regulatory approach or agency mission. As such, CEQ could ensure that the broadest set of environmental goals was being advanced.

Second, CEQ was charged with an even broader mandate: to make sure that in the articulation and implementation of the nation's environmental program, economic and social imperatives were fully taken into account. Sound environmental

strategy that is based on good science, and is broad-based rather than parochial in scope—this, I believe, was the vision of Congress.

A parallel vision embodied in NEPA is that Federal agencies make important decisions affecting the environment in a democratic way, only after a thorough examination of the likely impacts of alternative courses of action. By putting sound information before the public and government managers, informed public input to such decisions would be guaranteed.

Both of these visions—coordination and balance, and informed democratic decisionmaking—were prescient for 1969, a time when the Environmental Protection Agency did not yet even exist. They remain cornerstones of the nation's environmental policymaking, and have been at the heart of our environmental progress over the past three decades.

In my work over the past 5 months as Acting Chairman of CEQ, a very large part of my work has been oriented to this practical, problem-solving side of CEQ's mandate: seeing to it that Federal departments and agencies are on the same page, are working together. I have been reminded often, as I was at the Interior Department, how important it is that the Federal family speak with one voice. This subject comes up over and over again with mayors, county executives, and Governors, as well as with representatives of regulated groups and industries.

In November, when I addressed the Western Governors Association (WGA) meeting in Phoenix, many of the Governors explained how important CEQ is to them because it is the only place where "all roads cross" when it comes to Federal environmental policy. It is the only place they can go for help when they are caught between Federal environmental statutes or agencies, or want to appeal an agency policy or decision. In fact, several Governors said publicly they are dismayed that CEQ is so small and has so few resources, given the importance of its role to their constituents.

A significant part of CEQ's casework relates to the NEPA process, and particularly to the preparation of Environmental Impact Statements (EIS) and Environmental Assessments (EA). Typical of CEQ's involvement is a recent settlement in a case involving the Longhorn Pipeline, which runs from Austin to San Antonio. A proposal to use this former oil pipeline to transmit natural gas—serving, among other things, poor communities with inadequate energy supply—faced potentially fatal delays because proponents sought to avoid NEPA's applications and a Federal court held that an EIS might be required. A CEQ-brokered court settlement satisfactory to all parties calls for prompt preparation of a robust EA that will provide the public with ample information and meet NEPA legal requirements in time to allow for key investment decisions.

State and local governments, and other stakeholders, look to CEQ for leadership on new initiatives as well. For example, last fall the Governors of California, Oregon, Washington, and Alaska asked the Administration to create a Federal fund to help them restore endangered coastal salmon runs—with an absolute minimum of Federal red tape. But to ensure accountability to the Federal Government and Congress, and coordination on a regional basis, the Governors proposed that the Federal coordinating role be undertaken by CEQ. Responding to their request, the President's proposed fiscal year 2000 budget indeed includes a \$100 million Pacific Coastal Salmon Recovery fund to help States, tribes and local communities restore coastal salmon.

Clearly CEQ's "casework" and coordinating roles are also very important to many Members of Congress. The number of requests and referrals from Members seeking improved NEPA coordination among the agencies is increasing every year.

Yet CEQ today has fewer staff members and a smaller budget than it had during much of the 1970's—nearly a third less staff even than at the end of the Bush Administration.

For this reason, the President's proposed fiscal year 2000 Budget requests additional funding for CEQ to carry out a Partnership Program to work more closely with governments, mayors, and private individuals in collaborative initiatives and in problem-solving in the field.

My vision for CEQ is no more and no less than the vision I believe Congress had in 1969: a balanced, coordinated and effective Federal environmental policy, and a process for democratic, informed environmental decisionmaking.

In 6 years this Administration has compiled a record of strong environmental protection as good as that of any President in history, while catalyzing and overseeing the strongest economic recovery since World War II. There is no longer any reason to debate whether rigorous environmental standards go hand in hand with economic progress. The history is now clear, and the record speaks for itself.

I am proud of the part CEQ—and NEPA—have played in establishing that record and look forward to working with the Congress to continue building on it, for the sake of our environment and the American people.

## UNITED STATES SENATE

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

## INFORMATION

### REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

<b>Name of Nominee:</b>	<u>George Thomas Frampton, Jr.</u>
<b>Business Address:</b>	<u>Old Executive Office Building, Room 360</u>
	<u>Washington, DC 20501</u>
<b>Business Phone:</b>	<u>( 202 ) 456-5147</u>
<b>Home Address:</b>	<u>3215 Newark Street, NW</u>
	<u>Washington, DC 20008</u>
<b>Home Phone:</b>	<u>( 202 ) 966-5626</u>

Name: Frampton, Jr. George Thomas

(Last) (First) (Middle)

Date of Nomination: February 23, 1999

Marital status: Single Full name of spouse: \_\_\_\_\_

**Name and ages of children:** Adam Snow Frampton (Age 19) \_\_\_\_\_

Thomas Ward Frampton (Age 15) \_\_\_\_\_

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\_\_\_\_\_

Institution	Dates attended	Degrees received	Dates of degrees
<u>Harvard Law School</u>	<u>9/66-6/69</u>	<u>JD</u>	<u>6/69</u>
<u>London School of Economics</u>	<u>9/65-6/66</u>	<u>M.Sc.</u>	<u>6/66</u>
<u>Yale University</u>	<u>9/61-6/65</u>	<u>A.B.</u>	<u>6/65</u>
<u>University of Illinois High School</u>	<u>9/56-6/61</u>	<u>Diploma</u>	<u>6/61</u>

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Attorney and Consultant, 1800 Massachusetts Ave. NW, Washington, DC (9/97-10/98)



**Employment record—continued**

Assistant Secretary of the Interior for Fish, Wildlife and Parks, 1849 C St. NW, DC (6/93-3/97)  
President, The Wilderness Society, 900 17th Street, NW, Washington, DC (2/86-3/93)  
Attorney-At-Law, 1200 17th Street, NW, Washington, DC (2/85-1/86)  
Partner, Rogovin, Hugel & Lenzner, 1730 Rhode Island Avenue, NW, DC (10/76-1/85)  
Ass't Special Prosecutor, Watergate Special Prosecution Force, 1425 K St. NW, DC (6/73-6/75)  
Fellow, Center for Law & Social Policy, N Street, NW, Washington, DC (1972-1973)  
Law Clerk to Honorable Harry A. Blackmun, US Supreme Court (1971-1972)  
Consultant & rapporteur, Middle East peace project, under auspices of  
American Friends Service Committee, Harvard and NYU Law Schools (1970-1971)  
Vista Volunteer Lawyer, New York City (1969-1970)

**Honors and awards:**

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

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**Memberships:**

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>Yosemite Restoration Trust</u>	<u>Board Member</u>	<u>1991-1993</u>
<u>Island Press</u>	<u>Board Member</u>	<u>1990-1993</u>
<u>Glen Eagles Foundation</u>	<u>Board Member</u>	<u>1988-1995</u>
<u>DC Bar</u>	<u>Board Member</u>	<u>1972-present</u>

**Qualifications:**

State fully your qualifications to serve in the position to which you have been named.

Public service in positions such as Assistant Special Prosecutor, Watergate Special  
Special Prosecution Force 1973-1975, and Deputy Director, NRC Special Inquiry into  
Three Mile Island Accident, 1989-1990, President, The Wilderness Society 1986-1993,  
Assistant Secretary of the Interior for Fish, Wildlife & Parks 1993-1997.

**Future  
employment  
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Presently employed at CEQ. All prior business relationships have been terminated.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

© If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Left Department of Interior 1997 for personal reasons to take six-month sabbatical with  
teen-age sons.

**Financial  
Statement:**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None, except Wilderness Society pension fund independently managed as  
a pooled fund by CIGNA Insurance Company

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes, one year in the late 1970's. Received a small additional refund due to deductions  
I had not claimed but to which I was entitled.

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

Three Latin America country mutual funds White House Counsel wishes me to divest

No others

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Divestiture of stocks mentioned in #2 above

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

In addition to the above answer. I will comply with guidance and instructions from White House Counsel and the Office of Government Ethics.

**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

Registered Democrat, DC. As best I can recall, I have not made any contributions

In excess of \$1,000 to any party or election committee in the past ten years.

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**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

Approximately 30 published "op-ed" pieces in various national newspapers, 1986-1992

Regular editorials and occasional articles in The Wilderness Society's quarterly magazine, Wilderness

"Bringing Racial Diversity to the Environmental Movement," in Reconstruction (1991)

Various introductions and chapters for environmentally related books, e.g., lengthy introductions to the re-publication of Gifford Pinchot's autobiography, "Breaking New Ground" (Island Press 1987)

Three Mile Island, A Report to the Commissioners, Vol. I, Conclusions and Recommendations (1980)

"Stonewall: The Real Story of the Watergate Prosecution" (with Richard Ben-Veniste) Simon & Schuster (1976)

Several law review articles

**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

N/A

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

**AFFIDAVIT**

George T. Frampton Jr. ) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 11th day of MARCH, 19 99.

Annelle L. Long

Notary Public

My commission expires April 30, 2003

**RESPONSES BY GEORGE FRAMPTON TO ADDITIONAL QUESTIONS FROM SENATOR GRAHAM**

*Question.* Will the CEQ conduct an analysis on how the Department of Defense conducts Environmental Impact Statements for base closures and determine if the process could be streamlined or improved for future base closures?

*Response.* Pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 and the Defense Base Closure and Realignment Act of 1990, Congress modified the application of NEPA to the base closure process and limited its procedural mandate to certain phases. The overall process could certainly be improved for future base closures. In fact, given where the processes currently are, a review of how to improve the NEPA coordination would be timely. At present, CEQ was not contemplating a study of this process. However, if this surfaced as an important and immediate issue and CEQ had additional resources for an analy-

sis on the base closure and reuse process, the results could possibly be helpful to the agencies and the public.

As to the specific question you and I spoke about in your office, there appears to be no difference between how the various branches of the Armed Services conduct their NEPA analyses for base closures. The difference between how the NEPA processes were conducted for the closures of Homestead Air Force Base and Orlando Naval Air Station was based solely on differing levels of community support. The difference was not based on any inconsistency between the Armed Services' implementation of NEPA.

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RESPONSES BY GEORGE FRAMPTON TO ADDITIONAL QUESTIONS FROM SENATOR THOMAS

*Question 1.* During your confirmation hearing, you stated that CEQ was preparing interagency guidance regarding State and local governments as cooperating agencies.

A. Please provide a copy of this guidance.

Response. A copy of the draft interagency guidance, currently being circulated for comments, is attached.

B. Will this guidance be subject to public review and comment?

Response. Guidances, such as this one, represent short policy statements which usually do not go through a public comment period. Instead, the draft guidance will be circulated to all Federal agency NEPA contacts for agency comments. In addition, however, we would be pleased to circulate copies of the draft guidance to interested Members of Congress, such as yourself, and receive comments on the draft guidance from your office and other Congressional offices. We will also be happy to send draft copies to the National Governors Association, the Conference of Mayors, and the National Association of Counties for comments.

C. When will this guidance be issued?

Response. We hope to issue this guidance by mid-June 1999. Of course, that is dependent on the nature and timing of the comments we receive on the draft guidance.

D. What agencies will receive this guidance?

Response. All Federal agencies will receive the draft guidance and will have an opportunity to comment on it. The final guidance will also be sent to all Federal agencies.

E. Why not issue this guidance as a CEQ regulation?

Response. The current CEQ regulations already contain clear provisions concerning cooperating agencies and the roles of local, county, State and Tribal governments in the NEPA process. The guidance focuses on the existing regulations and will serve to remind all agencies of their responsibilities to include local, county, State and Tribal governments, where appropriate. Thus, the guidance is an appropriate way of reinforcing the intent of the regulations and makes the issuance of another regulation unnecessary.

F. How will CEQ ensure that local land managers or rangers are aware of this guidance?

Response. The final guidance will be sent to all agency heads and all agency NEPA liaisons. CEQ will request that these agency heads and NEPA liaisons distribute the guidance to the appropriate personnel, including all appropriate regional, district and other local offices.

G. Will you support my efforts to amend NEPA to clarify that State and local governments should be afforded the opportunity to become cooperating agencies if they so choose?

Response. The National Environmental Policy Act and the current NEPA regulations fully reflect the goals of NEPA in including local, county, State and Tribal governments as cooperating agencies. We believe that the guidance currently contemplated satisfies the additional need for a comprehensive policy as we discussed in your office. The Administration has opposed in the past amending NEPA to make mandatory State, local and Tribal cooperative status. If the guidance proves not to be successful, however, I will certainly be willing to consider other options.

*Question 2.* In November 1995, Senator Craig and I sent the attached letter to your predecessor outlining a process of improving NEPA compliance within the Forest Service. I also have enclosed Ms. McGinty's only response to this letter. Please provide an action plan for addressing the issues raised in that letter.

Response. The November 1995 letter to the Chair of the Council on Environmental Quality raises serious and important issues regarding the Forest Service's implementation of the National Environmental Policy Act. The numerous suggestions contained in the letter for embarking on a comprehensive rulemaking include cogent observations and interesting substantive suggestions. I believe that the process that you and Senator Craig propose for the rulemaking has merit. I also agree with the suggestion in the letter that we only begin on such a course of action following the Forest Service's revision of their planning regulations under the National Forest Management Act. This is especially important since the NEPA process, to be effective, must be well integrated with the decisionmaking process. In short, after the Forest Service's revision of their planning regulations has been completed, it will be appropriate for the Forest Service to revise their current NEPA procedures. At that time, I will consult with the Chief of the Forest Service regarding the proposals in the November 1995 letter and report back to you and Senator Craig on the NEPA implementation issues.

*Question 3.* According to CEQ regulations, Environmental Assessments (EAs) are to be brief concise analyses which assist a Federal agency in determining whether a proposed action will have significant impacts and therefore require an Environmental Impact Statement (EIS).

A. Please provide the number and length of EAs, by Federal agency, for each of the last 5 years.

Response. Our most recent data on environmental assessments is CEQ's 1992 survey of Federal agencies and EAs. In 1992, Federal agencies prepared 45,000 EAs, and agencies continue to prepare approximately 50,000 EAs each year. Only 26 percent of the agencies responding to the 1992 EA Survey indicated that their EAs do not exceed 10–15 pages, as recommended by CEQ. Another 26 percent of the agencies estimate the average EA length at 26–45 pages. Forty-six percent of the agencies prepare EAs averaging between 16–60 pages. Six agencies (13 percent) responded that the average length is between 46–100 pages. Two agencies stated that their average EA is 100 pages. Attached please find the list of 44 agencies responding to the EA survey, the chart regarding number of EAs prepared by agency and the chart of average length of EAs by agency. (See Attachment).

B. How many of these EAs resulted in the preparation of EISs?

Response. Twenty-eight percent of the respondents to the 1992 EA Survey stated that they precede EISs with EAs less than 1 percent of the time. Further, the same number simply never prepare EISs, while 4 of the respondents said their agencies "rarely" precede EISs with EAs. Thus, 67 percent of the respondents, rarely, if ever, precede EISs with EAs, either because they do not prepare EISs, or, as many agencies noted, do not have to prepare an EIS based on experience and NEPA guidance. The 67 percent figure rises to 74 percent when calculating those agencies that precede less than 10 percent of their EISs with EAs. Four agencies precede EISs with EAs 100 percent of the time.

C. How many EISs were preceded by EAs?

Response. The 1992 EA Survey reflects that most of the 44 Federal agency respondents do not precede EISs with EAs. As set forth above, 74 percent of respondent agencies stated that less than 10 percent of their EISs are preceded by EAs.

D. ACED does not have this information, why not?

Response. Not applicable.

*Question 4.* Given the wide range of actions which require an EA—everything from the Longhorn pipeline in Texas to the renewal of an unchanged grazing permit in Wyoming—Ms. McGinty stated that "CEQ is aware that further clarification of the use of EAs would be useful, particularly in the area of public participation." See S. Hrg. 104–774 at p. 61 (Sept. 26, 1996.) What clarification has CEQ provided over the last 3 ½ years on the use of EAs?

Response. In the past 3 ½ years, CEQ has provided clarification on the use of environmental assessments in its Environmental Justice Guidance under the National Environmental Policy Act, published on December 10, 1997. The guidance makes clear that EAs also require a discussion of socio-economic considerations.

#### DRAFT MEMORANDUM

FROM ACTING CHAIR TO HEADS OF FEDERAL AGENCIES

RE: Designation of Non-Federal Agencies to be Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act

DATE: April, 1999



The purpose of this Memorandum is to urge agencies to actively solicit the participation of State, tribal and local governments as "cooperating agencies" in implementing the environmental impact assessment process under the National Environmental Policy Act (NEPA). 40 C.F.R. §1508.5. As soon as practicable, but no later than the scoping process, Federal agency officials should identify State, tribal and local government agencies which have jurisdiction by law and or special expertise with respect to any environmental impact involved in a proposed action, or a reasonable alternative to a proposed action, that requires the preparation of an environmental impact statement. The Federal agency should then determine whether such non-Federal agencies are interested in assuming the responsibilities of becoming a cooperating agency under 40 C.F.R. §1501.6.

The benefits of granting cooperating agency status include disclosure of relevant information early in the analytical process receipt or technical expertise and staff support, avoidance of duplication with State tribal and local procedures, and establishment of a mechanism for addressing intergovernmental issues. If a non-federal agency agrees to become a cooperating agency, agencies are encouraged to memorialize in writing their specific expectations, roles and responsibilities.

Agencies are reminded that cooperating agency status neither enlarges nor diminishes the decisionmaking authority of either Federal or non-Federal entities. However, cooperating agency relationships with State, tribal and local agencies helps to achieve the direction set forth in NEPA to work with other levels of government "to promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." Considering NEPA's mandate and the authority granted in Federal regulation to allow for cooperating agency status for State, tribal and local agencies, cooperator status for appropriate non-Federal agencies should occur routinely.

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LIST OF 44 AGENCIES RESPONDING TO EA SURVEY AND INITIALS AS THEY APPEAR IN TABLES

- Department of Agriculture
  - Agriculture Stabilization and Conservation Service (ASCS)
  - Animal Plant Health and Inspection Service (APHIS & APHIS/BP)
  - Farmers Home Administration (FHA)
  - Food Safety and Inspection Service (FSI)
  - Forest Service (USES)
  - Rural Electrification Administration (REA)
- Department of Commerce
  - Economic Development Administration (EDA)
- Department of Defense
  - Air Force (Air Force)
  - Army (Army)
  - Marine Corps (USMC)
  - Navy (Navy)
- Department of Energy (DOE)
- Department of Housing and Urban Development (HUD)
- Department of Interior
  - Bureau of Land Management (BLM)
  - Bureau of Reclamation (RECLAM)
  - Fish and Wildlife Service (F&WS)
  - Minerals Management Service (MMS)
  - National Park Service (NPS)
  - Office of Surface Mining (OSM)
- Department of Justice
  - Bureau of Justice Statistics (BJS)
  - Immigration and Naturalization Service (INS)
- Department of Labor
  - Mine Safety and Health Administration (MSHA)
- Department of Transportation
  - Federal Aviation Administration (FAA)
  - Federal Highway Administration (FHWA)
  - Federal Railroad Administration (FRA)
  - Federal Transit Administration (FTA)
  - Maritime Administration (MARAD)
- Department of the Treasury
  - Federal Law Enforcement Training Center (T-FLETC)
  - Bureau of Alcohol, Tobacco and Firearms (T-ATF)

Department of Veterans Affairs (VA)  
Arms Control and Disarmament Agency (ACDA)  
Consumer Product Safety Commission (CPSC)  
Environmental Protection Agency (EPA)  
Export-Import Bank of the United States (EXIM)  
Federal Communications Commission (FCC)  
Federal Energy Regulatory Commission-OHL (FERC-OHL)  
Federal Maritime Commission (FMC)  
General Services Administration (GSA)  
Interstate Commerce Commission (ICC)  
Marine Mammal Commission (MMC)  
National Capital Planning Commission (NCPC)  
Tennessee Valley Authority (TVA)  
Nuclear Regulatory Commission (Office of Nuclear Reactor Regulation) NRC/NRA  
U.S. Postal Service (USPS)  
Small Business Administration (SBA)

## NUMBER OF EAs PREPARED BY EACH AGENCY

	<u>0-10</u>	<u>11-75</u>	<u>76-500</u>	<u>501-1000</u>	<u>1001-5000</u>	<u>5000+</u>
ACDA	9					
MMC	0					
FMC	5-10					
REA		21				
USPS		25				
EXIM			300-350			
EDA			300-400			
CPSC	0					
FERC/OHL		45				
ICC			150			
TVA		12				
MMS			225			
ARMY			350			
MSHA	0					
NAVY		45-60				
HUD						8,500
USDA-FIS	NA					
FCC	NR					
FHWA			250			
F&WS			500			
NCPC	3					
NRC			100			
INS	3					
NPS			205			
FTA		35				
VA	9					
SBA	NA					
OSM			133			
T-FLETC	2					
RECLAM		30				
T-ATF	0					
ASCS	1					
APHIS/BP			86			
APHIS			70-100			
AIR FORCE				550		
BLM						10,000
USMC		20-30				
USFS						12,500
GSA		37				
EPA		50				
DOE		30				
FAA			500			
MARAD	0					
FHA					2000	
FRA	0-1					
DOJ/BJA	0					

## AVERAGE LENGTH OF EA/EXTREMES

	<u>Average</u>	<u>High</u>	<u>Low</u>
ACDA	1		
MMC	NA		
FMC	8		
REA	15-25	50	
USPS	100	1,500	50
EXIM	4-6		
EDA	4-5	15	2
CPSC	NA		
FERC	30	under 100	
ICC	3-5	50	
TVA	50	100	20
MMS	50-60		
ARMY	25	250	4
MSHA	NA		
NAVY	100	200	10-15
HUD	4	50	
USDA-FIS	NA		
FCC	25	100	1
FHWA	30-50		
F&WS	10-25	120	3
NCPC	1	"half-inch"	
NRC	5	29	3
INS	25	50	
NPS	15-25	200	4
FTA	30-40	200	
VA	12-14	35	
SBA	NA		
OSM	10	20-50	4-8
T-FLETC	NA	150	NA
RECLAM	50	100	
T-ATF	NA		
ASCS	20-50	50	10
APHIS/BP	38-45	101	28
APHIS	30-40	100	
AIR FORCE	45	150	3
BLM	varies		
USMC	30	128	5
USFS	25-30	400	1
GSA	27	65-100	
EPA	7-10	60	
DOE	40	77	5
FAA	5-25	100	
MARAD	NA		
FHA	4-10		
FRA	NA		
DOJ/BJA	NA		

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 RESPONSES BY GEORGE FRAMPTON TO ADDITIONAL QUESTIONS FROM SENATOR BENNETT

*Question 1.* Do you have any knowledge of communications, ongoing plans or activities designed to create additional national monument sites anywhere in the United States, beyond the discussions regarding the proposed monument on the Arizona Strip?

Response. Nothing beyond the letter from the President to Secretary Babbitt in November and made available to Congress. As you know, the President wrote Secretary Babbitt asking him for his advice on whether any area warranted national monument protection. The President has received no such recommendation or information from Secretary Babbitt to date and other than the conversations that Secretary Babbitt has had with Congress, I am aware of no such recommendations or information.

*Question 2.* I am sure that the Committee members would be very interested in learning which States would be impacted by such plans if there are any. Please tell us all of the areas and States that have been, currently are, or could be included in any discussions that have been held.

Response. See answer 1 above.

*Question 3.* If you are not personally aware of any other discussions, will you review this matter with your staff as well as the appropriate individuals in the various Federal agencies that might be impacted. If it is the case that there are no plans to use the Antiquities Act to create additional monuments, please provide me written assurance that this is the case within 2 weeks of receiving these questions.

Response. Only the President has the authority under the Antiquities Act to create a national monument. To my knowledge, my staff and I are not aware of any plans for the President to do this.

*Question 4.* Do you feel that the Antiquities Act which was passed in 1906, long before the passage of FLPMA, NEPA, the National Park Service Organic Act, or the Wilderness Act is still an appropriate vehicle for public land management decisions? Is it your intention that this authority will be used again during the remaining tenure of the Clinton Administration?

Response. I believe that the Antiquities Act is still an appropriate vehicle for certain public land management decisions. As you know, the President's authority under the Antiquities Act is available only to the extent that the land in question is land already in public ownership, and has no application to land that is privately owned. The decision to invoke the executive authority under the Antiquities Act is not available to the Chair of CEQ, but is the President's alone. I would not presume to speak for the President on this matter with respect to the remainder of his term.

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#### RESPONSES BY GEORGE FRAMPTON TO ADDITIONAL QUESTIONS FROM SENATOR CRAPO

*Question 1.* Congress and the courts have repeatedly confirmed the authority of States to allocate and administer water within their borders. However, I am deeply concerned that the Administration is setting the stage for ignoring long-established statutory provisions concerning State water rights. Can I have your commitment that the Endangered Species Act, Clean Water Act, Federal Land Policy Management Act, national designations, and other Federal initiatives are not used to erode State sovereignty over water?

Response. The Administration's initiatives proceed from the principle that we need to strengthen our partnership with States both in protecting ground water and surface water, and in helping resolve disputes among States with conflicting claims to water resources. This principle recognizes that State law provides the foundation for our water right's system.

As the Committee is aware, there are particular circumstances in which States have disputed the scope of Federal authority to protect waters of the United States or to protect other water resources that have been entrusted to Federal management. I do not intend to seek any change in the positions or roles that agencies have asserted in these particular matters over the course of the Administration, and I intend to make myself available to States with concerns that agency conduct may have impinged State authority over water resources.

*Question 2.* Current Federal land management agency actions demonstrate a clear policy direction to decrease access by the public to Federal lands. I have visited communities in Idaho that have been greatly impacted by these actions. Recognizing the role of the CEQ in guiding these policies, is it appropriate for National Forests to be designated "closed-unless-posted-open."?

Response. CEQ has had no involvement to my knowledge in these policies that involve decreasing access by the public to Federal lands. As I understand it, the policies your question raises about national forest road postings are decided on a forest-by-forest basis at a local level.

*Question 3.* If this must be determined on a case-by-case basis, is it your policy that the public is restricted from public lands except where designated by land managers?

Response. Many of the public lands are administered under multi-use statutes. However, not all uses are appropriate for all lands. The appropriate use is determined by the processes set out by law and processes, which generally involve local land users and stakeholders.

*Question 4.* At the recent Andrus Symposium on public land management in Boise, Idaho, a number of agency officials, including Chief Dombeck and Director Clark, indicated their interest in having more collaborative stewardship with local

communities. I support their interest in this, but am concerned that policy direction from Washington poses constraints on the Federal Advisory Committee Act (FACA) process. What steps are you taking to eliminate these constraints to FACA and increase local public involvement in decisionmaking?

Response. The Administration is committed to working with local communities to forge partnerships for more collaborative stewardship. There was concern voiced several years ago that the Federal Advisory Committee Act prohibited such local government inclusion. Fortunately, FACA was amended specifically to allow State and local government participation where a statute, such as NEPA, encouraged public involvement. To the extent that your question raises concerns about the number of authorized advisory committees, I would be pleased to review the situation and see if the number of committees in existence can and should be increased.

*Question 5.* Your predecessor, Katie McGinty, was an instrumental supporter of the Enhanced Training in Idaho project as the Idaho congressional delegation, the Air Force, the Department of Interior, and the State of Idaho worked to enact land withdrawal legislation to build this range. Can we count on your support as we continue the effort to develop this important Air Force training range.

Response. I am aware of CEQ's historical involvement and support of this project and would be more than happy to work with the Idaho delegation should there be a role for CEQ to play in the future.



## NOMINATION OF TIMOTHY FIELDS, JR.

WEDNESDAY, MAY 5, 1999

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The committee met, pursuant to notice, at 9 a.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Warner, Crapo, Baucus, Lautenberg, and Wyden.

### OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Good morning. The purpose of today's hearing is to consider the nomination of Mr. Tim Fields as Assistant Administrator of EPA's Office of Solid Waste and Emergency Response.

I am pleased to welcome everyone here today. Mr. Fields, I believe you have the members of your family here. Would you like to introduce them to us?

Mr. FIELDS. Yes, sir, thank you, Mr. Chairman.

I have with me, and I will ask them to stand, my wife, Emma; my son, Stephen Fields; my mom, Clara Fields; and my dad, Tim Fields, Sr. And they are all here to visit today with me, and thank you for having me introduce them.

Senator CHAFEE. Fine, well, we are delighted that you all were able to be here this morning, and I am very pleased to welcome you to this hearing.

Mr. Fields has been employed by EPA in a variety of positions for more than 25 years. Most recently, on February 17, 1997, Mr. Fields was appointed as Acting Assistant Administrator for the Office of Solid Waste and Emergency Response, which has the unpronounceable acronym of OSWER, which is an odd one.

Prior to this, Mr. Fields served for 3 years as Principal Deputy Assistant Administrator for OSWER. In this capacity, he was responsible for Superfund, hazardous and solid waste management under the so-called RCRA Act, and environmental cleanup under a number of other Federal laws.

Mr. Fields was Director of EPA's Superfund Revitalization Office for 2 1/2 years. He was Deputy Director of EPA's Superfund Office for 2 1/2 years, Director of EPA's Emergency Response Division for 4 1/2 years, and Deputy Director of the Hazardous Site Control Division for a 1 1/2 years.



In addition to these positions, Mr. Fields has held a variety of supervisory and staff positions in the Office of Mobile Sources and the Office of Solid Waste. Since September 1997, he has also served as Chairperson of the EPA Human Resources Council.

Mr. Fields has a Bachelor of Science degree in Industrial Engineering from Virginia Polytechnic Institute and Virginia State University. He has a Master of Science in Operations Research from George Washington University, and had an additional year of graduate studies at Ohio State University.

Now this nomination has not proceeded as quickly as others that the committee considered recently. Mr. Fields has been serving in an acting capacity for nearly 27 months, since his predecessor, Elliott Laws, resigned in early 1997. The White House nominated another individual for this position, but that was later withdrawn and Mr. Fields was selected as the new nominee.

Mr. Fields might have been confirmed last year, had his nomination been received by the committee just a few days earlier than it was. The committee acted on a large number of nominations, right up to the end of the last Congress. And all those individuals were ultimately confirmed, prior to adjournment.

Since the President resubmitted Mr. Fields' nomination to the committee in January of this year, we have examined an important decision that EPA made regarding the enforcement of a December, 1998 deadline for underground storage tanks to comply with Federal law. I will have some questions on the substance of that policy, and Mr. Fields' role in the EPA's decision, when we get to the question period.

Now, Senator Baucus, I am sure, has a statement. And perhaps other committee members will, too. I do not see Senator Baucus, but he should be here soon.

But I think we can proceed. You have a statement, Mr. Fields. Why do not you rise and raise your right hand, if you would, please.

Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. FIELDS. I do, sir.

Senator CHAFEE. Fine, all right, why do not you proceed with your statement, Mr. Fields?

**STATEMENT OF TIMOTHY FIELDS, JR., NOMINATED BY THE  
PRESIDENT TO BE ASSISTANT ADMINISTRATOR, OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE, ENVIRON-  
MENTAL PROTECTION AGENCY**

Mr. FIELDS. Thank you, Mr. Chairman. It is a great honor for me to be here before you and the other members of the committee who will be joining us.

As you said, I have been a career public servant for almost 28 years now. I am greatly honored to be here today to testify before this committee.

My family and I are both grateful and honored that President Clinton has nominated me for the position of Assistant Administrator for Solid Waste and Emergency Response.

I look forward with great enthusiasm to the challenge and the opportunity of serving as Assistant Administrator and directing the

waste management and environmental cleanup programs at EPA. I am willing to meet with any other Senators, and talk to members of your staff, as you consider this nomination.

I am especially proud today to have my family with me. They are my greatest supporters. I thank them for being here and being present.

My wife, Emma, has been my greatest supporter for more than 26 years. We have been keeping each other together and straight for a long time. And I thank her for all she has done to be a supporter for me.

My son, Stephen, I thank him for even being here. He is in the midst of final exams right now, in college, as he graduates next week.

I thank him for making the sacrifice to come here and be here, in the middle of his exam schedule. I told him to stay, but he decided to come anyway. That speaks well of him, but I hope it does not impact on his exam grades.

[Laughter.]

Mr. FIELDS. I am also thankful for my parents. My mom and dad have been great for me. A lot of people say I act like my dad and look like my mom.

My dad is my hero. He is why I became an engineer. My father, at an early age, when I was growing up, built his own house. He put in all the electricity. He put in water and heating and bathroom facilities when we formerly were using outhouses. He cut my hair, he fixed my cars, and he still does that, even today. So I thank him for being a great role model for me.

My mom, she has been a great friend. She has been a great supporter. When I was growing up, I always wondered, people used to always come down around our house. We lived in a rural community. And they would always come visit. I thought they were visiting me. I found out later that they wanted to be near my mom's cooking.

So, you know, it has been a tremendous support system. And my mom and dad have been supporting me for more than 51 years. And I thank them for being here today. It is really, really special that they are here.

Senator CHAFEE. Well, we are certainly glad you are all able to be here. That is a wonderful thing. And I know Senator Lautenberg joins me in welcoming you, your son, your wife, your parents, to this hearing today.

Senator LAUTENBERG. It does intimidate us, I will tell you. We had better behave.

[Laughter.]

Mr. FIELDS. Well, Mr. Chairman, Senator Baucus, and Senator Lautenberg, and other members of the committee who will join us, I did begin my career at EPA in 1971, about 6 months after EPA was formed.

A lot has changed at EPA since that time. What has not changed is my dedication to public service and my strong commitment to EPA's mission to protect public health and the environment. I know that public service is a special calling for me.

As Principal Deputy Assistant Administrator for 3 years, and Acting Assistant Administrator during the past 2 years, in

OSWER, and Senator Chafee, you did a good job of pronouncing that acronym, I have had the opportunity to be involved in some major program initiatives; the Superfund program reforms being a major component of that.

I was tasked by the Administrator to lead and direct the three rounds of Superfund administrative reforms. I am pleased to tell you that the high priority on Superfund by this Congress and the Clinton Administration has resulted in some significant improvements.

We have got 599 sites that are now construction completed. We have got 90 percent of the sites that are either construction complete or construction underway.

So we have done a lot to get cleanup done. We have accelerated cleanup by more than 20 percent, and reduced costs by about 20 percent, with more than a billion dollars in cost savings and remedy updates over the last 3 years.

We have been fair. More than 18,000 small parties have been settled out, and we have offered orphan share funding for more than 70 parties over the last 3 years. At the pace we are going, we are projecting that 85 percent of the sites will have construction completed by the end of 2005.

Our goal in Superfund is to build on that success administratively, and work with Congress to pass responsible Superfund legislative reform. We would suggest that there is a lot of agreement of certain reforms like liability relief for perspective purchasers, innocent landowners, contiguous property owners and small generators and transporters of municipal solid waste.

We would hope that people would focus on some of those changes, enact them, and reinstate the taxes, and allow us to have the resources we need to finish the job of getting these sites cleaned up.

Brownfields has also been a program that I have spearheaded and led the effort on at EPA. I led the direction and the development of the Brownfields Action Agenda in 1995.

That effort started with three communities, began to spread to 50 more, and now we are involved in more than 250 communities around the country, where we have given them grants to provide assistance to the assessment and cleanup of Brownfields sites in communities around the country.

It has resulted in more than a billion dollars in other private and public sector investment, and created more than 2,500 jobs in the last couple of years.

I will continue to build on the success of this initiative, which began as an EPA initiative, and has now become an Administration-wide initiative.

Third, one of my top priorities for the near term will be the Resource Conservation and Recovery Act (RCRA) correction action program. We want to implement administrative changes to RCRA, just like we have done for Superfund. I welcome the opportunity to work with this committee on making those changes, as well.

The RCRA corrective action program has 1,700 high priority sites. We want to work with you to develop a program and game plan as to how we can most effectively address those sites.

I am ready to provide leadership to meet this challenge. States are largely responsible for overseeing RCRA corrective action clean-ups. But I believe they need national and program leadership from EPA to help get the job done.

Last, in closing, I would like to thank the employees of the Office of Solid Waste and Emergency Response, and many other partners at EPA, in the Enforcement Office, the General Counsel's Office, Congressional Affairs Office, all the folks who have worked to support me over the years, as well as our EPA regional offices and the labs, who work hard to implement the Superfund, the Brownfields, the RCRA Hazardous and Solid Waste Program, the Underground Storage Tank Program, the Chemical Emergency Preparedness and Prevention Program, the Federal Facilities Oversight Program, the Technology Innovation and the Oil Pollution Programs on a daily basis.

I could not do my job without that tremendous support. These are all talented and dedicated Federal employees, who are critical to the success of these programs. I pledge my support to them, as well as this committee, as we work together to provide safe and healthy environments for ourselves, for our children, our grandchildren, and future generations.

In closing, Mr. Chairman, I want to thank you for your time and the opportunity to appear before this committee. I ask this committee for your support of my nomination as Assistant Administrator for Solid Waste and Emergency Response at EPA. I pledge to faithfully execute the laws and regulations within my responsibility.

I look forward to working with this committee. And I will be happy to answer any questions at this time.

Senator CHAFEE. Well, thank you very much, Mr. Fields.

And Senator Baucus, do you have a statement that you would like to make?

**OPENING STATEMENT OF HON. MAX BAUCUS,  
U.S. SENATOR FROM THE STATE OF MONTANA**

Senator BAUCUS. Actually, I would, Mr. Chairman, like to say a few words about the nominee.

Since the nominee is a native Virginian, Senator Warner was going to be here this morning to introduce Mr. Fields. But he is unable to attend this hearing, because of the crisis in Kosovo, and he has several meetings on that subject he is attending.

And I would just like to, in the meanwhile, just mention a little bit of Mr. Fields' very considerable background, particularly in solid waste and emergency response.

As a career employee of EPA since its inception in 1971, he actually is a very rare breed, in the length of time he has served with such distinction.

Even more remarkable, he received the highest award for civil servants, the Presidential Rank Award for Distinguished Executive Service—not once, but he received that highest award four times. He was twice recommended under President Bush and twice recommended under President Clinton. And he is the only EPA employee to be so honored, and has received four times the highest civil service award.

Mr. Chairman, we have a nominee of exceptional ability. He has demonstrated commitment to public service more than anyone I know. And these are qualities that I think will help serve him in the programs he administers very well.

He has been front and center at the heart of a lot of the reforms in Superfund. He has dedicated experience. He has long tenure, a great list of personal accomplishments. And I know that he is the kind of man who focuses on getting solutions to problems today. Rather than bellyaching or complaining about something not getting done right, he just settles down and gets the job done.

And I just want to commend you, Mr. Fields, and thank you for all the work that you have done for not only EPA, but for our country.

Mr. FIELDS. Thank you, sir.

Senator CHAFEE. Senator Lautenberg?

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG,  
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Yes, thanks, Mr. Chairman.

I feel like now, having read the book, we are going to the prologue and see what it is about. Because we have heard from Mr. Fields. We have met the three generations, which is nice to see. I am sure that your family is proud of you. And we know that you have a good support system, not only on a personal basis, but within this institution, as well.

And it is deserved, because you have done such a good job, Mr. Fields. Rarely, as Senator Baucus has said, have we had a nominee come before us with so much direct experience to qualify him for the job??

And as you know, Mr. Fields comes to us, not from a political background, but from the field of engineering. He came to the attention of the Administration not from the world of politics, but from long and outstanding service as a career employee.

You mentioned that you started in the early 1970's, and during that time you have worked on matters that relate to hazardous waste, since well before the passage of Superfund in 1980.

As you well know, it has been a program that I have supported very aggressively, because I see the results. And we are pleased that we are on target to complete the task that was taken those years ago. It took a long time to get it rolling, but it is rolling now.

And Mr. Fields served as Deputy Assistant Administrator in the Office of Solid Waste and Emergency Response from 1994 through February 1997. And at that time, he was appointed to his current position as Acting Assistant Administrator for OSWER.

During that time that Tim Fields has been working in the top management of the waste programs, the program has undergone major changes and major improvements. In fact, as just about everyone involved in the Superfund Program agrees, there have been significant strides made in the number and the pace of the sites being cleaned up, with your hand very much involved.

According to a report issued by the General Accounting Office, by the end of this fiscal year, all cleanup remedies will have been selected for 95 percent of the non-Federal NPL sites. That is over 1,100 sites.

Additionally, about 990 National Priority List sites have had final cleanup plans approved. Approximately 5,600 emergency removal actions have been taken at hazardous waste sites to stabilize dangerous situations, and to reduce the threat to human health and the environment.

Almost 31,000 sites have been removed from the Superfund inventory of potential waste sites, to help promote the economic redevelopment of these properties. That is a very significant program.

During this same time, EPA has worked to improve the fairness and the efficiency of the enforcement program, even while keeping up the participation of potentially responsible parties in cleaning up their sites.

EPA has negotiated more than 400 de minimis settlements with over 18,000 small parties, which gave protection for those parties against expensive contribution suits brought by others to try oftentimes to divert attention to the polluter largely responsible.

So since fiscal year 1996, EPA has offered orphan share compensation of \$145 million at 72 sites to responsible parties who were willing to step up and negotiate settlements of their cases.

And EPA is now offering this at every single settlement, to reward settlers and reduce litigation, both for the Government, and with other private parties.

And I had an interesting meeting with a fellow named Jan Schlichtmann, who was the subject of a movie called Civil Action. And I was interested to know that this lawyer, who brought the famous case up in Woburn, is now engaged not in litigation, but in negotiating settlements, and has decided that there is a better way to go.

And that is pretty astounding, when you think about it. Because often, there are such juicy fees that hang out there as a target for reward. But people are getting more sensible, totally, about the way we deal with the Superfund Program.

So other improvements besides the few highlights we have mentioned, such as instituting the targeted review of complex and high cost cleanups, prior to remedy selection, have reduced the cost of cleanups, without delaying the face of cleanups.

In short, EPA's administrative reforms have significantly improved the program by speeding up cleanups and reducing senseless litigation, and making the program fairer, faster, and generally more efficient.

And I think it is fair to say that Mr. Fields deserves a significant part of the credit for these strides. In fact, I think that most of the people who have dealt with Tim Fields, in his current acting position, would agree that his approach is unflaggingly constructive, and that he is devoted to making the programs that he administers work.

I understand that many outside groups support this nomination, including the Hazardous Waste Action Coalition, the Association of State and Solid Waste Management officials, the Petroleum Marketers Association of America, and the InterState Oil and Gas Compact Commission.

They are, by no means, uninterested observers in this action. They say, Mr. Fields, that you deserve support because of the way you have handled your job.

So I want to put into the record, Mr. Chairman, a copy of their letter in strong support of Mr. Fields. And I look forward to working with him in the future, continuing our joint efforts to clean up hazardous waste sites and protect the health and future welfare of our citizens.

[The letter from Hazardous Waste Action Coalition follows:]

HAZARDOUS WASTE ACTION COALITION  
Washington, DC 20005, February 19, 1999.

The HONORABLE JOHN H. CHAFEE,  
Dirksen Office Building,  
U.S. Senate,  
Washington, DC 20510.

DEAR SENATOR CHAFEE: The Hazardous Waste Action Coalition (HWAC) is a national trade association representing the leading firms that provide multimedia environmental assessment and remediation services across the United States. Our members work to implement this country's hazardous waste laws in an expeditious, cost-effective manner to ensure protection of human health and the environment.

HWAC strongly endorses the nomination of Tim Fields to be the Assistant Administrator of EPA's Office of Solid Waste and Emergency Response (OSWER). Mr. Fields has been responsible for implementing EPA's Superfund Administrative Environmental Resources Reforms, which have helped to improve the Superfund program in the absence of much needed comprehensive legislative reform. Mr. Fields' breadth of experience in Superfund, RCRA and the other activities undertaken by EPA's OSWER office is matched by few people either inside or outside of the Federal Government. Our experience is that Mr. Fields is a consensus-builder, and is committed to getting the job done. We are confident he will work hard to promote responsible implementation of Congressional initiatives. Finally, Mr. Fields knows the cleanup business and is extremely well-suited to guide EPA's hazardous and solid waste programs into the next century.

We urge your prompt confirmation of Tim Fields, to be EPA's Assistant Administrator of the Office of Solid Waste and Emergency Response (OSWER). Please feel free to contact me at 202-828-7368, or Terre Belt, HWAC's Executive Director, if you have any questions.

Sincerely,

DANIEL E. KENNEDY, *President.*

Senator LAUTENBERG. And I hope that the process will move expeditiously, and that you will be able to assume the full responsibility, as I think you have earned it.

Mr. FIELDS. Thanks very much.

Senator CHAFEE. Thank you very much, Senator.

Senator CRAPO?

Senator CRAPO. Thank you, Mr. Chairman. I have no opening statement at this time.

Senator CHAFEE. All right, now we will have a period for questions.

Mr. Fields, on December 9 of last year, you issued a memorandum on the subject of EPA's enforcement policy with respect to the December 22 deadline for upgrading, replacing, or closing leaking underground storage tanks. As you recall, the deadline was to be December 22.

Up until that point, everyone at EPA, from the Administrator down, had repeatedly stated that the deadline would be enforced. We were so informed that you were going to stick by that deadline.

Your December 9 memo, however, seemed to reflect a different position, essentially giving small businesses, the so-called "mom and pop" operations, and State and local governments, that is, local fire departments or police departments, or local governments—what you did was to give them an additional 6 months to come into compliance.

Now, obviously, the ones who had made the effort to comply were resentful of the extension that was given to some others. And I have great trouble understanding why you changed the policy. Could you tell us what went into your thinking?

And, obviously, the Administrator was involved, too. I am not saying she was not involved. But if I am correct, it was you who issued the December 9 memo?

Mr. FIELDS. That is correct, Senator. I will be happy to describe what led to that policy change.

Senator CHAFEE. And particularly, I am concerned about giving the extension at all. My own view is, you set deadlines, and you and the Agency had constantly said you were going to stick by the deadline, which is fine.

Mr. FIELDS. Right.

Senator CHAFEE. But go to it.

Mr. FIELDS. You are right. We did issue a policy, signed jointly by me and the Assistant Administrator for Enforcement and Compliance Assurance, Steve Herman, on December 9, to change our enforcement and compliance assistance strategy, for how we address underground storage tanks.

We did not change the deadline. We would have to amend the regulations in order to change the deadline. But I want to tell you what led to the change in policy.

We determined that there were significant changes in the projections of the number of people that would be in noncompliance from our earlier projections. In December, 1997, one year before the deadline, we were projecting that roughly 15 percent of the universe would be in noncompliance, about 165,000 tanks.

As we were approaching the December, 1998 deadline, we were discovering and we were projecting that 350,000 tanks would be in noncompliance, more than double the number of tanks that we were projecting a year earlier.

So that, obviously, caused some issues. We were concerned with the reality of a more than double noncompliance universe than we were projecting a year earlier. So that was a consideration that informed our judgment that we had to do something to bring those into compliance.

Second, we recognized that a lot of those people that were still in noncompliance, the 350,000, were small businesses, moms and pops, that had not taken the steps to bring their tanks into compliance, and critical local government service organizations, like fire departments, police departments, hospitals, et cetera.

So given the large number of people that were going to be non-complying by December 22, 1998, and the makeup of some of those people, we said, what is the best way, how do we focus our resources, and bring those remaining tanks into compliance; 550,000 had been brought into compliance; 1.2 billion had closed during that 10-year period. How do we get these last 350,000 into compliance?

And so we then decided that we needed a combination of enforcement activity and compliance assistance activities to bring that remaining universe into compliance.

So we formulated with the Administrator and the Enforcement Office and my office a dual strategy which said, high enforcement



priority will be the Federal Government, first of all. We have got to set a good model and get our act together.

So the Department of Defense, Department of Energy, we have got to make sure we are meeting the deadline. Large, multiple complex facilities and facilities near sensitive ecosystems would be high priorities.

And last, we said, for the mom and pop, and the local government support services, we would use compliance assistance. They would have to self-disclose, tell us that they are in noncompliance, and we would issue a penalty to them, and put them on a compliance agreement to bring their tanks into compliance.

We thought that was the best approach to bringing these remaining, roughly 300,000, tanks into compliance as quickly as possible. That is the thinking that led to this.

I recognize, you are right, Senator, it was a policy change. As I have communicated to your staff, in the future, I want to make sure we have a better process for communicating when the Agency makes major policy pronouncements, that we have an opportunity to discuss and inform this committee ahead of time, and have a dialog about it.

But that is what led to our change in policy, those considerations.

Senator CHAFEE. Well, yes, there is no question that the change in policy did cause deep concern with me and others.

It is my understanding, however, that the facts I have are somewhat different from the facts that you have described. And that is, the number of tanks that were not meeting the standards.

Let us see, in the summer of 1998, we have information that shows over 536,000 tanks, 60 percent of all the underground storage tanks, were not equipped to meet the upgrade requirements. That was back in the summer of 1998, the summer.

In the fall, it appears, as of November, 1998, approximately 395,000 would be out of compliance. In other words, it was not more. It was fewer, which does not conform with the situation as you have outlined it, previously.

Mr. FIELDS. Well, I agree the data fluctuated through the year. The fact is, Senator, that as I stated earlier, that we were projecting on December, 1997, 165,000 tanks would be in noncompliance, 15 percent of the universe.

As we were approaching the deadline, in November, 1998, we were now projecting 350,000. I can not speak for what the numbers were, throughout the year.

I do want to point out those numbers vary. For example, I have got data here now that I can provide to the record that shows that in 13 States that said they had a certain percentage of tanks in compliance on December 22, 1998, they now have reduced the number of tanks that they say were in compliance.

Some States, for example, said 75 percent of the tanks in our universe were in compliance. They now tell us that that was wrong. The number really should have been 55 percent. So the numbers varied during the year.

I did not track the numbers throughout the year. But all I can tell you is that during the fall of 1998, I was seeing that the num-

bers had more than doubled, from what had been communicated to me in December 1997.

And that was a consideration. It was not the only consideration. But the fact that we had a large number of tanks that were in non-compliance, what is the best strategy for bringing them into compliance, considering the make-up of that universe, small mom and pops, you know, Federal Government facilities, large complex facilities—what is the best strategy?

Given you have got 300,000 tanks, and we all, this committee, and me, as well, share a common goal, what is the best approach to getting all of the two million tanks that existed in 1988 into compliance as quickly as possible? A great job has been done, all except 300,000, and what is the best approach to do that?

I can not quibble over, you know, how the numbers fluctuated. But all I know is that the numbers had more than doubled from a year earlier.

Senator CHAFEE. OK, fine, thank you. My time is up.

Senator BAUCUS?

Senator BAUCUS. Thank you, Mr. Chairman.

Thank you very much, Mr. Fields.

I might say, Mr. Chairman, and this is just in passing, that the Montana Department of Environmental Quality, in October, 1998, did an analysis of this deadline.

And it concluded that it would have some effect, not great effect, if it were enforced vigorously, but that the loss of all service stations in the communities may have economic health effects, even though fuel might be made available in nearby communities.

The point being, in rural States, where a station goes down, it causes great hardship. It is kind of like the theory of perspective reimbursement in hospitals. You know, the theory, the patient survived, but some could always go to the next hospital. But in rural areas, that just does not apply.

Mr. Fields, I would like you to just outline for us and remind us of some of the administrative reforms that you are part of and helped put together in the Superfund Program. What are some of the things that you have done to help speed cleanups and get rid of some of the paperwork, and helped make the program more efficient?

Mr. FIELDS. Sure, Senator, I will be happy to give you some examples of that. We implemented, as I indicated, three rounds of administrative reforms during the last 6 years.

The reforms all had different themes. In the first round of reforms, we focused on how we can be more fair. We implemented a lot of reforms on de minimis settlements, and how we can get more small parties out of the system, mixed funding, and allocation pilots that we would test new ways to be more fair to parties involved in the system.

The second round of reforms was focused on Brownfields, and how we can foster more economic redevelopment of sites, while we are assessing them and cleaning them up. And that led to the Brownfields Action Agenda.

And the third round of reforms was focused on how we could speed the pace of cleanup, how we could provide more consistency.

And that led to, for example, the updating of the remedy initiative that led to saving time and money, based on new science and technology, more than a billion dollars over 3 years, the National Remedy Review Board that has saved more than \$43 million in terms of looking at more than 30 site remedies, implementing presumptive remedies to speed up cleanup, soil screening levels for more than 100 chemicals commonly found at Superfund sites, guidance on future anticipated land use, so we would probably consider industrial versus commercial versus residential land use in making remedy decisions.

Those are just examples of some of the reforms we have implemented. We think they have had a tremendous impact. Our data shows that we have saved more than 20 percent in time.

It now takes an average of 8 years, from the time a site is put on the NPL until construction is complete. We have saved tremendous costs. And I think we would be judged by most people to be more fair.

Senator BAUCUS. Could you give us some idea of how much of a cost reduction and how much of a delay in time?

Mr. FIELDS. A 20 percent reduction in time—we have gone from 10 years to 8 years in the time it takes to go through the Superfund process.

We have saved 20 percent, on the average. The average cost of a Superfund site cleanup now is \$20 million; whereas, 5 or 6 years ago, it was \$25 million, on the average, for a Superfund site cleanup. We have saved more than a billion dollars in projected costs in the future, from the updating remedies initiative.

So I think those are just some examples, and even we have gotten letters and endorsements from the regulated community that agree that those reforms are working, and time is being saved, and cost is being saved, as well.

Senator BAUCUS. Were you involved in the Anaconda Oil Works project?

Mr. FIELDS. Yes, I was.

Senator BAUCUS. Could you explain that to the committee, please? I think that is quite a success story.

Mr. FIELDS. That is a tremendous success story. And that is a contaminated mine property in Butte, Montana. That site was cleaned up, and construction is underway. But we were successful in working with the responsible party, with the State, with the community.

We were able to take contaminated mining area, and working with Jack Nicklaus, it was converted into a world class Jack Nicklaus golf course.

And that is a tremendous success story and an example of how we want to turn Superfund sites into recycled, valuable property for the future. And I think the Anaconda is a great success story.

And Jack Nicklaus has indicated, by the way, he wants to work with us on some more Superfund sites, based on his experience with the Anaconda site.

Senator LAUTENBERG. Do they want to go farther, or something?

Senator BAUCUS. That is right. It is a higher altitude. They could go a little farther, there.

What remains to be done? What can be done administratively?

Mr. FIELDS. Well, we want to continue the administrative reforms we have implemented over the last 6 years. We believe that the primary new focus, administratively, ought to be on just the example used just cited, of the Anaconda site and the golf course example.

We have seen, over the years, that there have been many examples like that where we have been able to take a contaminated Superfund site, using the Brownfields model, and turn it into a productive reuse, commercial or economic or recreational or ecological, in that community.

We want to now move forward in looking at how we can recycle, redevelop, reuse more of these Superfund sites. I think that is going to be the next major administrative focus for us at EPA, how we can marry up environmental cleanup and economic redevelopment at the same time.

Senator BAUCUS. That is a good point, instead of just plain cleaning up the site and leaving it there, it is getting a win/win out of it.

Thank you, very much.

Senator CHAFEE. Thank you, Senator Baucus.

Now there is a vote on. I think it is best for us to recess here, and go over and vote. I will be back and we will get started as soon as I get back. So we will have a little break here.

[Recess.]

Senator CHAFEE. We are waiting for Senator Baucus. And until he gets here, I have a couple of questions I will ask you, Mr. Fields.

Getting back to the underground storage tanks and the enforcement which, as you know, has been troubling to me, the 6-month extension, now that, presumably, would take it from December 22 up to June 22. Am I right?

Mr. FIELDS. That is correct.

Senator CHAFEE. And, therefore, what your plans are—now, I understand Administrator Browner was in on this decision, if I understand the situation correctly.

In other words, I think she has indicated that her concerns were more with the so-called mom and pops, and with the local communities, where they have the fire station and police station tanks. Am I correct in that? That was what seemed to motivate her.

Mr. FIELDS. That is correct, Senator. Obviously, when we shared with her the 300,000-plus people that were in noncompliance, we pointed out that roughly 100,000 of those tanks were likely to be small businesses, mom and pops, and some local governments that provide fire, police, et cetera, services.

So, yes, that was a strong consideration for the Administrator. She was concerned about the population that you just mentioned.

Senator CHAFEE. But now what is going to happen, before you know it, June 22 will be with us, you know. That is 5 weeks away. What is going to happen then?

Mr. FIELDS. Well, June 22, Senator, in response to your letter and your inquiry on your concern about this issue, we made clear to all the regulated community, that effective June 23, that day we will obviously make all local governments, all small businesses, a high enforcement priority.

Those that have not self-disclosed, paid a penalty, and entered into a compliance agreement with EPA, they become a high enforcement priority, also. And your letter to us prompted us to make clear that very clear policy in our communication to the regulated community. So they will become a high enforcement priority, as well.

We feel that the 6 months is more than enough opportunity for those people who legitimately want to take steps to come into compliance to let us know about it, take action to do so. If they do not do it by June 22, they become a high enforcement priority, as well.

Senator CHAFEE. OK. Senator Wyden, do you have a statement or some questions? The time is yours.

**OPENING STATEMENT OF HON. RON WYDEN,  
U.S. SENATOR FROM THE STATE OF OREGON**

Senator WYDEN. Thank you very much, Mr. Chairman. I appreciate your thoughtfulness, and I will be brief.

Let me just say to the nominee that the Office of Solid Waste and Emergency Response is going to play a key role in connection with what is my top priority on this committee, and that is deepening the Columbia River Channel.

Chairman Chafee and Senator Baucus both have been enormously helpful to me. I think the Chairman knows this goes back to the days with Senator Hatfield. This is something that he felt very strongly about.

And there is great concern that if EPA decides to list the Portland Harbor, which is, of course, a part of the project, as a Superfund site, that could throw a very large wrench into the works, possibly setting back the deepening project for several years.

Now to prevent that from happening, I want to make it clear, I wish to work with you and your office to see if there is not a less bureaucratic alternative to a Superfund listing that ensures both that the harbor gets cleaned up, and allows the channel deepening project to move forward without a delay.

For example, my State has submitted a fairly lengthy proposal to you all, asking for the opportunity to take the lead in cleaning up the site, without a formal Superfund listing.

Another option would be to segment the deepening project. That way, deepening would proceed on the 103 miles of the Columbia Channel, where there is no contaminated sediment, and the entire project would not be held up because of the possibility of a five mile stretch of the Willamette that is not essential for the deepening project.

In short, before we vote on your nomination, I would very much appreciate the chance to meet with you in my office to discuss in detail these options. They are of enormous importance to our region.

As I say, Chairman Chafee and Senator Baucus have been extraordinarily helpful to this senator on this project. And as the Chairman knows, it does go back to the days of Senator Hatfield, when it was his top priority, as well, for our region.

So if you would like to comment at this time, Mr. Fields, that would be welcome. But I would like the chance, before we vote on

your nomination, to meet with you in my office to discuss these matters in some detail.

Mr. FIELDS. Senator Wyden, I pledge to you that we will have that meeting expeditiously.

And, apparently, I learned during the break that there was some confusion. I guess our staff did not know that your office had not received the communication that we wanted to meet with you actually prior to this hearing. And I apologize for that not occurring.

But I assure you that I am aware of the situation around Portland Harbor. And I know that we are considering our various options; one of which is the State's option of State deferral of the site, and not putting it on the NPL; and, you know, looking at an option of the NPL, as well.

We have gone various ways on that. And we have been able to be flexible. And we recognize the importance of redevelopment.

As I shared earlier, before the break, a major focus of our agenda here now and in the future, in the next couple of years, is going to be how we can recycle and how we can redevelop more contaminated property.

So whichever option allows us to help facilitate both cleanup and re-use and redevelopment, and creation of infrastructure in that area, we would be very supportive of.

I will set up a meeting with you to discuss your concerns, your position on this, and make sure we carefully weigh all that before any final decision is made.

Senator WYDEN. I was raised to be very, very cautious about ever hearing an "F" word. But when you say "flexibility" you are talking about the word we want to hear in our part of the world on this.

And we believe that there is a way to clean up the harbor, and go forward with this channel deepening project that both Chairman Chafee and Senator Baucus have been so helpful on. And so we will look forward to that meeting.

And I thank you for the time, Mr. Chairman.

Senator CHAFEE. Yes, it would be helpful to move right along with setting up that meeting. Because, as with all nominations, I like to bring them up and move along.

And there will be some delay here, because I think there will be some written questions to the witness. And then he will have to have a chance to respond to them. But if you could set up that fairly soon.

Senator WYDEN. Absolutely.

Senator CHAFEE. And let me know when you have completed it, if you would.

Senator WYDEN. Thank you. We will do it right away.

Senator CHAFEE. OK. Senator Baucus?

Senator BAUCUS. Yes, thank you, Mr. Chairman.

Mr. Fields, you have testified that cleanups have been completed at 599 of the sites of the NPL. For what percentage of sites have remedies been selected?

Mr. FIELDS. We have selected remedies at more than 90 percent of the sites, the non-Federal sites on the National Priorities List. That is a substantial number of sites. We are estimating that by the end of next year, remedies at over 1,100 sites will have been signed.

So at a lot of the Superfund sites, remedies have been selected. And we have got construction completed at more than 45 percent of the sites on the National Priorities List.

Senator BAUCUS. So what work remains to be done; how much?

Mr. FIELDS. Well, I would make five quick points on that point. There is a lot that we have done. We see a lot of progress has been made in this program.

At the end of this current fiscal year, fiscal year 1999, we will have roughly 700 sites that we have to bring to construction completion. We will continue to still need to do about 200 to 300 removal actions a year, at Superfund sites and non-NPL sites around the country.

We want to continue the pace of doing 85 construction completions a year, up through 2005. We will have to invest some resources in post-closure care; that is, 5 year reviews, operation and maintenance at sites, as well. And there will be some limited numbers of listings.

But, bottom line, in 2005, 85 percent of the current NPL will have construction complete. So I think we do see some light at the end of the tunnel. Substantial progress has already been made.

And we see, over the next 5 years, a substantial amount of work being done because of the reform agenda that we have implemented in Superfund.

Senator BAUCUS. If this Congress does not pass the Superfund Bill, how much delay will that cause, or what will that prevent you from doing?

Mr. FIELDS. Well, we, as an Administration, have suggested to Congress targeted legislative reform that we would support. And we think that there is bipartisan support by Democrats and Republicans for liability relief for prospective purchasers, innocent land owner liability relief, contiguous property owners, and small generators and transporters of municipal solid waste.

We, however, do believe, with that limited, targeted legislative reform that we would hope Congress would agree to support, we do believe that there needs to be a reinstatement of the taxes. We need that to have a source of funding to get our job done.

We believe that roughly \$1.5 billion a year is going to be needed over the next 5 years to continue the job of completing 85 constructions a year, doing 200 to 300 removals, et cetera.

Senator BAUCUS. How much is left in the trust fund?

Mr. FIELDS. At the end of this current fiscal year we are in right now, we will have about \$1.4 billion left in the trust fund. At the end of fiscal year 2000, which is the next year beginning October 1st, we will have roughly \$485 million remaining in the trust fund.

Senator BAUCUS. Since the tax is not being collected now, what is that, partly interest, and what other sources of revenue?

Mr. FIELDS. Well, the revenues are where we obtained cost recovery and some interest payments. But the bottom line is, that balance will run out in the middle of fiscal year 2001, at the current time, unless Congress provides either reinstatement of the taxes, or some alternative source of funding for the Superfund program.

Senator BAUCUS. What is your reliance quotient on the balance being made up with general revenue?

Mr. FIELDS. Well, we are concerned about a substantial contribution from general revenues footing the bill for Superfund toxic waste cleanup.

Historically, as you know, Congress has given us about \$250 million a year in general revenues to fund this program. And the rest has been paid for out of taxes into the trust fund.

We believe that is an appropriate balance, 85 percent coming from the trust fund, 15 percent from general revenues. We do not believe the American taxpayer ought to foot the bill for toxic waste cleanup. So we would be opposed to a system of all of Superfund cleanup being funded by general revenues.

Senator BAUCUS. So, basically, general revenue has supplied about \$250 million a year. Is that correct?

Mr. FIELDS. That is correct.

Senator BAUCUS. And if the tax is not reinstated, over the 5-year period, what would the total general revenue contribution have to be?

Mr. FIELDS. Well, on the average, I mean, as I said, we would run out of money. The trust fund balance expires midway into 2001.

Senator BAUCUS. You are going to keep the same \$1.5 billion?

Mr. FIELDS. We are talking \$1.5 billion a year, roughly, over, let us say, a 4-year period. We are talking there about \$6 billion in general revenues just, you know, over a 4-year period, plus some amount that would come out of general revenues and fiscal year 2001 which, roughly, is going to be another billion.

So you are talking \$7 billion; \$7 billion would be needed to fund the program out of general revenues, if we did not reinstate taxes from 2001 through 2005.

Senator BAUCUS. I have another question. I know my time has expired, Mr. Chairman.

But some of the oil companies say why should they have to pay any more because, at least they say, that most of their sites have been cleaned up.

Mr. FIELDS. Well, you know, that is a judgment we have got to make regarding how toxic waste cleanups ought to be done. We think that the fairest mechanism is to have some contribution through taxes into the fund.

I have heard that same issue regarding the oil companies and chemical companies and others that are contributors to contamination at some of our most toxic sites around the country. We think they ought to be footing most of the bill, as opposed to the American taxpayer.

Senator BAUCUS. Thank you very much.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you, Senator.

Senator Warner?

Senator WARNER. Thank you, Mr. Chairman, distinguished friend, the Ranking Member. And Mr. Fields, we welcome you.

Mr. FIELDS. Thank you, sir.



**OPENING STATEMENT OF HON. JOHN W. WARNER,  
U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA**

Senator WARNER. As privileged as you are to claim the great State of Virginia; it is my State. And when I look back over your record, first your educational background, and your experience, I say to myself, the President and the administrative EPA selected wisely.

Mr. FIELDS. Thank you, Senator.

Senator WARNER. And we are fortunate that a man of your distinction is willing to devote himself to public service. My guess is that you could triple your income on the outside, if you wished to do that. We have got you now. We are going to keep you a while.

[Laughter.]

Senator WARNER. This is a great committee. And from time to time, you will come before it to give us your valuable advice and guidance as to how best to solve the almost insolvable problem that you are willing to take on.

I wish you luck, and that of your family.

Mr. FIELDS. Thank you, Senator Warner.

Senator CHAFEE. He has his family with him, Senator, his mother, father, son, and wife are all present. He has got a cheering section there.

Senator WARNER. Well, when he does not get home for supper on time, bear with us.

[Laughter.]

Mr. FIELDS. Senator Warner, I just want to say, I know you have been very busy with Kosovo and other matters involving foreign policy.

It really deeply pleases me, and it is tremendously gratifying to have the support of my home State senator. And I thank you for taking the time to even come here, given your busy schedule. And I thank you for your support.

Senator WARNER. Well, thank you, and I wish you luck. And that is an awesome amount of paper that you have in front of you there.

[Laughter.]

Senator WARNER. I find, just rely on your own experience and good judgment.

Mr. FIELDS. Well, Senator Chafee has a lot of questions, and I had to have a lot of answers here today.

[Laughter.]

Senator CHAFEE. Well, what is more, Senator Warner, Mr. Fields was educated in a Virginia institution.

Senator WARNER. That is right.

Senator CHAFEE. Virginia Polytechnic University, which I guess is called Virginia Tech. Is that correct?

Senator WARNER. Yes, Virginia Tech.

Mr. FIELDS. That is correct, sir.

Senator CHAFEE. Mr. Fields, I want to ask you about the Basel Convention. Now that is a convention that deals with the shipment of hazardous waste from nation to nation, across nation's boundaries. And they are going to meet in December, in Basel, Switzerland, this coming December, which is not so far away.

And I am concerned that the United States will arrive there without having ratified the convention, because the Administration has not proposed to us any legislation to do that.

And here is a situation where we need leadership from the Administration. And we have been waiting several years for the Administration's proposal on ratifying that convention.

Now it is my understanding that EPA is working with the State Department and the Commerce Department on a draft bill. So my question to you is, when do you think we will receive that?

And I just do not want a situation to develop that you send up some draft in September and October, and then somebody will blame Congress for failing to enact it by the time you meet in December. We have got to have the thing some time in advance to consider. These things just do not go flying through the day they are received.

So my question to you is, what is going on, and maybe you do not know. Maybe you are going to have to reply in writing. But if you do know, I would be interested in what is taking place as far as sending up to us a document for us to ratify the Basel Convention.

Mr. FIELDS. Yes, Senator, we are working with those departments. There is an inter-agency work group, as you indicated, made up of State Department, EPA, Commerce, Department of Justice, and various other agencies, on this. We are drafting legislation, and are going to be giving Congress a draft bill.

We will work with your staff to set up a meeting next week to talk about what we may develop and provide to you that would meet your needs.

Our initial schedule was to develop a draft legislative package and get it to you, and the House of Representatives, as well, by September. Your staff have communicated to me that that might be a problem in terms of your December deadline and the meeting coming up.

So we will be meeting with your staff, Senator Chafee, to talk about what we need to provide to you and what timeframe, so it meets your needs to develop legislation that this committee needs to consider.

So the current schedule would probably result in it getting to you too late, based on what you have indicated. We will work with your staff to see if we can provide what you need in a more timely way, in terms of legislative language.

There are some issues that the inter-agency work group has resolved, and we are very clear on that. There are other issues which we are still having debate within the Administration, and we are not there, yet.

But we will have a meeting with your staff next week to talk to you about where we are, to talk about those pieces that we are clear on, and those pieces that are going to take more time.

And then we can work out a mutually agreeable schedule as to what we need to provide to your committee to meet your legislative agenda for the remainder of this year.

Senator CHAFEE. Well, that will be very helpful. We have all discovered that everything takes longer than you think around here. And receiving this in September just would be unacceptable, and

so the sooner the better. And we look forward to your meeting with our folks in connection with that.

Now in your testimony, you said you plan to reinvent the retro-corrective action program, administratively. You have touched on this a little bit, but what are some of the specifics that you have?

Mr. FIELDS. We want to adopt the Superfund model of how we might reinvent RCRA. We want to, rather than finalizing regulations for corrective action, for example, under Superpart S of RCRA, we want to issue policy and guidance on how we can more effectively implement RCRA corrective action in a streamlined way, taking advantage of those best approaches that States and others have adopted over the years.

We will be establishing, just like we did for Superfund, numeric annual goals that regions and States have to achieve in the way of RCRA corrective action cleanups to meet our 2005 goals.

We will be putting on training workshops for our States on the most innovative way in which RCRA corrective action can be done.

We will be looking at a resource initiative for the future in terms of what resources we are going to need to meet our commitments for the out-years for RCRA corrective action.

Right now, the current budget has \$47.5 million for RCRA corrective actions. We want to look at a potential budget initiative for future years to be able to meet our goals for the next 7 years.

We have got specific annual goals that we will be providing to our regions and States, up through 2005. And we will be putting together an administrative reform agenda that allows us to achieve those goals annually, as well as the ultimate end point in 2005.

Senator CHAFEE. Mr. Fields, there are two obligatory questions I will ask you. One is, will you, at the request of committees from Congress, appear before the committee that requests you to appear?

Mr. FIELDS. Yes, sir.

Senator CHAFEE. And, second, do you know any reason, that has not been disclosed to us, why you would not be suitable for this position?

Mr. FIELDS. I know of no such reason, Mr. Chairman.

Senator CHAFEE. Fine. All right, I do not think we have any further questions. There may be some questions come up in writing to you. If you could get those answered in writing rapidly, and get back to the committee, that would be very helpful to us.

Thank you very much, Mr. Fields. We thank your family for their attendance. That completes the hearing. Thank you.

Mr. FIELDS. Thank you, Mr. Chairman.

[Whereupon, at 10:20 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF TIMOTHY FIELDS, JR., NOMINATED TO BE ASSISTANT ADMINISTRATOR FOR THE OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE, ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman, Senator Baucus, and Distinguished Members of the Committee, as a career public servant for almost 28 years, I am honored to be here today to testify before this Committee. My family and I are grateful and honored that President Clinton has nominated me for the position of Assistant Administrator for Solid Waste and Emergency Response at the U. S. Environmental Protection Agency (EPA). I look forward with great enthusiasm to the opportunity for new challenges

as an EPA Assistant Administrator in the direction of our waste management and environmental cleanup programs.

I am especially proud to have my family with me here today—my wife, my son and my parents. I thank my colleagues and many friends for their presence and support!

*A search for common ground*

Mr. Chairman, Senator Baucus, and Members of the Committee. I began my career with the U. S. Environmental Protection Agency in 1971. A lot has changed at the EPA since that time. What has not changed is my dedication to public service and my strong commitment to EPA's mission to protect public health and the environment. I know that public service is a special calling for me.

In some ways, I believe that finding solutions to today's environmental problems is more difficult than in years past. When I began my career, EPA's job was to write dozens of regulations to implement the new environmental laws passed by Congress. Now, with its important regulatory programs in place, EPA is more focused on approaches that not only protect the public and our environment, but also do it more efficiently, with less red tape, less process and in "plain English." We must weigh the needs and concerns of all stakeholders and search for consensus.

One thing that I have learned in my years at EPA is that we in the Federal Government do not have all of the answers. I am committed to looking beyond Washington, D. C., for solutions that are good for public health and the environment, good for business and good for our State, local and tribal partners. I am convinced that if we work together, we can find solutions that will work for everyone.

*Superfund—getting results*

As Principal Deputy Assistant Administrator for 3 years, and as Acting Assistant Administrator during the past 2 years, I have had the opportunity to put some of these new solutions to work. A major priority for me is continued Superfund reform. Cleaning up Superfund sites continues to be of utmost importance to the Agency. I am pleased to tell you that, because of your high priority focus on Superfund and the Clinton Administration's Superfund administrative reforms, we are implementing Superfund far differently today than 6 years ago. Significant program improvements have occurred. We have completed cleanup construction at 599 sites. We have settled with more than 18,000 small parties, offered \$145 million in orphan share funding, accelerated cleanup by 20 percent and significantly reduced the cost of clean up, saving over \$1 billion in future costs through remedy updates at more than 200 sites over the past 3 years. We are now achieving 85 construction completions per year. At this pace, we will have completed cleanup construction at 85 percent (1,180 sites) of existing National Priorities List (NPL) sites by 2005.

I will continue to work on administrative reforms to strengthen the Superfund program, and with Congress on legislative reforms that will address the specific statutory changes that would improve the program. We must continue to aggressively implement our reforms so that cleanups continue to be faster, fairer and more efficient than ever before. We must refine and update our reforms so they continue to work well. We need to also recognize that many of these Superfund sites, with a little work, creativity and commitment can become valuable assets to the community. We have already seen many old Superfund sites transformed into parks, retail businesses, and golf courses. I would like to work with our State and local partners and give them the tools they need, in conjunction with the private sector and affected communities, to turn even more Superfund sites into productive properties.

Our goal should be to build on our Superfund successes and cleanup the remaining Superfund sites and any newly discovered sites as quickly as we can. Targeted legislative changes to clarify the liability of prospective purchasers, innocent landowners, contiguous property owners and small generators and transporters of municipal waste would be helpful. That coupled with reinstatement of the Superfund taxes will give us what we need to finish our job.

*Brownfields—a shining success*

One of the most successful examples of what we can do when we work together is brownfields. In the brownfields program, we did not promulgate any new regulations. We did not tell State or local governments, businesses, or communities what to do. They told us what they needed. And we tried to help. The approach is working. In the short 4-year history of our brownfields program, we have developed partnerships with 250 communities across America through grants to State and local governments. Through this effort, over \$ 1 billion worth of investments has found its way into local economies, creating more than 2,500 jobs and improving the quality of life in hundreds of neighborhoods across the nation. I will continue to build on this success. In fact, this year EPA will provide support to more than 70 addi-

tional communities, up to \$200,000 each, to assess their brownfield sites, and 63 additional communities, up to \$500,000 each, to help establish their own revolving loan funds for cleaning up their brownfield sites. What began as a modest EPA initiative has been expanded by the support of other Federal, State and local government, and private partners to become a strong mechanism for assessing, cleaning up, and redeveloping brownfield properties.

#### *Reinventing Hazardous Waste Programs*

I hope to use the success of the brownfields program as a model for other programs within the Office of Solid Waste and Emergency Response. One of my top priorities is to reinvent the Resource Conservation and Recovery Act (RCRA) corrective action program administratively, much as we did in Superfund, and I welcome the opportunity to work with you and others in achieving this goal. The RCRA corrective action program is the remediation program for facilities that treat, store, or dispose of RCRA corrective action hazardous wastes and have potential environmental contamination.

In RCRA corrective action, we have a huge task ahead of us. We have about 1700 high priority RCRA corrective action sites that need to be addressed. Our Government Results and Performance Act goal directs us to control human exposure at 95 percent of these sites by 2005. This means that EPA and the States, collectively, will have to address an average of 185 sites per year for the next 7 years.

This is a tall order, but I am ready to provide the leadership to meet this challenge. States are largely responsible for providing oversight in cleaning up these sites, and one of my first initiatives will be to redouble our efforts to work even more closely with States. I will personally look for every opportunity to talk to State officials, to listen to their concerns and wherever possible, to support their ideas for improving the program. I will continue to look for administrative ways to cut red tape and unnecessary requirements. We must focus our regulations and guidance on results and not process. The recently promulgated Hazardous Waste Identification Rule (Media) and the Post Closure Rule are both good examples of how we can achieve this goal. I am also committed to helping States take full advantage of the flexibility already available in RCRA. For that to happen, State and regional officials must first know where they have discretion. And we have taken some initial but important steps to get the word out. We have developed a comprehensive training program for regional and State officials that defines the flexibility in our rules and guidance, and have established national, regional, and State goals for cleanup.

Finally, we are also in active negotiations to attempt to settle litigation on one of the Agency's critical regulatory reforms, the Corrective Action Management Rule. I am hopeful that these negotiations will result in a rule that remains a flexible and valuable tool for protective, efficient cleanups. Through all of these efforts, I believe we can reinvent our RCRA cleanup program, and I look forward to working with you on these actions.

#### *Underground Tanks—working toward compliance*

Another top priority is compliance with underground storage tank regulatory requirements. As you know, after a 10-year phase in period, on December 22, 1998, the statutory deadline passed for upgrading underground tanks to prevent drinking water, groundwater and soil contamination. While 1.2 million tanks have been taken out of operation and another 635,000 tanks have been upgraded or replaced over the past 10 years, many tank owners are not yet in compliance. However, our latest estimates are that 77 percent of the nation's tanks are in compliance. We want to work with the States to ensure that the remaining tanks are brought into compliance.

#### *Risk Management Plans*

I will continue to work with this Committee and others on effective implementation of the Risk Management plan (RMP) regulations. Consistent with a recent judicial stay of the RMP regulations by the U. S. Court of Appeals as applicable to propane facilities, EPA intends to issue an interim administrative stay of the June 21, 1999, RMP rule effective date as it applies to flammable hydrocarbon fuels, including propane, butane, ethane, propylene, and ethane (natural gas), stored in quantities greater than 18,000 gallons. EPA believes that facilities that store fuels in excess of this threshold present a risk to American communities, and should be required to submit an RMP.

Regarding Off-site Consequence Analysis (OCA) data, EPA has announced that it will not post OCA information on the Internet in light of the FBI concerns that such information could represent a national security risk. EPA does not intend to release OCA data until a responsible approach to address the national security concerns has been developed and is in place. EPA is working with DOJ, FBI, and other Federal

agencies to develop a responsible approach to making OCA information available to the public that addresses the security concerns. The interagency group is considering both legislative and non-legislative options and expects to complete its work very soon.

*Conclusion*

Of course, OSWER is responsible for many other important activities. Our Federal facilities cleanup oversight, and emergency preparedness, prevention, and response functions are critical. And our work on counter-terrorism, innovative technologies, recycling, waste minimization and pollution prevention will continue to be important to me and the Agency.

Finally, I would like to thank the employees of the Office of Solid Waste and Emergency Response and EPA's Regional Offices and Laboratories who work hard to implement the Superfund, Brownfields, RCRA, Underground Storage Tank, Chemical Emergency Preparedness and Prevention, Federal Facilities, Technology and Oil Pollution Programs on a daily basis. These are the talented and dedicated Federal employees who are critical to the success of these programs. I pledge my support to them as we work together to provide safe and healthy environments for ourselves, our children and grandchildren, and future generations.

In closing, let me thank you again for your time and the opportunity to appear before you. I look forward to working with this Committee and I will be happy to answer your questions.

## UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT  
AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

## INFORMATION

REQUESTED OF PRESIDENTIAL  
NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

<b>Name of Nominee:</b>	Timothy Fields, Jr.
<b>Business Address:</b>	U.S. EPA, 401 M Street, S.W.
	Washington, DC 20460
<b>Business Phone:</b>	( 202 ) 260-4610
<b>Home Address:</b>	1108 Dapple Grey Court
	Great Falls, Virginia 22066
<b>Home Phone:</b>	( 703 ) 759-4193

UNITED STATES SENATE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Fields, Timothy, Jr.  
(Last) (First) (Middle)

Position to which nominated: Assistant Administrator  
U.S. EPA, Office of Solid Waste and Emergency Response

Date of Nomination: 10/98

Date of birth: 07/08/47 Place of birth: Ruther Glen, Virginia  
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Emma Louise Coleman Fields

Name and ages of children: Stephen Timothy Fields - 21

**Education:**

Institution	Dates attended	Degrees received	Dates of degrees
Virginia Tech	9/66-6/70	B.S.I.E.	6/1970
Ohio State Univ.	6/70-6/71	No Degree	
George Washington Univ.	9/74-6/75	M.S.O.R.	6/1975

**Employment record:**

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

NOTE: All jobs with U.S. EPA

- (1) Acting Assistant Administrator, Office of Solid Waste and Emergency Response  
2/97 - Present.
- (2) Deputy Assistant Administrator, Office of Solid Waste and Emergency Response  
2/94 - 2/97
- (3) Director, Superfund Revitalization Office - 2/92 - 4/94
- (4) Deputy Director, Office of Emergency and Remedial Response  
10/89 - 2/92



## Employment record - continued

- (5) Director, Emergency Response Division - 1/85 - 10/89
- (6) Deputy Director, Hazardous Site Control Division - 8/83 - 1/85
- (7) Chief, Manufacturers Programs Branch, Office of Mobile Sources - 3/80 - 8/83
- (8) Chief, Technology Programs, Office of Solid Waste - 4/77 - 3/80
- (9) Staff Engineer, Office of Solid Waste - 6/71 - 4/77

## Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Presidential Rank Awards for Distinguished Executive Service - 1993 and 1998

Presidential Rank Awards for Meritorious Executive Service - 1989 and 1996

EPA Silver Medal; Three (3) EPA Bronze Medals

## Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Mt. Sinai Baptist Church Washington, DC		1983 - Present
Senior Executive Assn. Great Falls, VA		4/94 - 4/95
Federal Executive Institute Alumni Assn. Great Falls, VA		8/88 - 8/90

## Qualifications:

State fully your qualifications to serve in the position to which you have been named.

## Qualifications - continued

My primary qualifications to serve in this position relate to my nine years of experience serving in various management and staff positions in the solid and hazardous waste program (Office of Solid Waste), 10 years as a supervisor in the Superfund program (Office of Emergency and Remedial Response), three years as Principal Deputy Assistant Administrator, and almost two years as Acting Assistant Administrator. I have been a member of the Senior Executive Service since 1985.

**Future  
employment  
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Would continue employment with U.S. EPA

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Have no plans after completing Federal government service

3. Has anybody made a commitment to you for a job after you leave government?

No one has made a commitment to me for a job offer after I leave  
government

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes. Intend to serve the full term

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Have held no such positions

#### Financial Statement

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

No

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

No action necessary

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See transmission of SF-278 from the Director, Office of Government Ethics.

**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None

**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

Report to Congress on Disposal of Hazardous Waste - 1973

Land Disposal of Hazardous Wastes - June 1975

Incineration in Hazardous Waste Management - 1975

**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

Additional matters—continued

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2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

Cannot think of additional questions.

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#### AFFIDAVIT

WASHINGTON, DISTRICT OF COLUMBIA

TIMOTHY FIELDS, *Timothy Fields*, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 25<sup>th</sup> day of JANUARY, 1999.

*Francis P. Bonds*  
Notary Public

FRANCIS P. BONDS

NOTARY PUBLIC, DISTRICT OF COLUMBIA  
My Commission Expires: 31 August 2001



#### RESPONSES BY TIMOTHY FIELDS TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

*Question 1.* Your written testimony states that one of your "top priorities is to reinvent the Resource Conservation and Recovery Act (RCRA) corrective action program administratively."

*Question A.* What are the specific areas or problems that you believe need to be addressed in this reinvention effort?

Response. The RCRA Cleanup Reforms are the Agency's primary focus in identifying and reducing impediments in the corrective action program. At times, RCRA cleanups have suffered from an emphasis on process and a lack of clarity in cleanup objectives. More specifically, the impediments or disincentives to timely and cost-effective RCRA cleanups include:

- Multiple reporting and review requirement of the corrective action process.

- Disagreements over cleanup objectives between EPA, State agencies, and companies.
- Lack of incentive for companies to perform cleanups apart from economic advantages, such as selling or redeveloping the property.
- The application of certain RCRA requirements, such as land disposal restrictions (LDRs), minimum technological requirements (MTRs), and permitting, when applied to the cleanup of remediation waste.

*Question B.* What specific changes do you plan to make to the corrective action program? In particular, what elements of the proposed Subpart S regulation do you expect to implement?

Response. In the near-term, EPA plans to focus on the following administrative reforms to the corrective action program. Most of these components derive from the Subpart S effort.

- Development of performance-based guidance during 1999 that clarifies general short-term cleanup objectives and includes recommendations on how to gauge when they have been achieved.
- Implementation of additional guidance and an extensive training effort in 1999 and 2000 that emphasize environmental results instead of the process, and that highlight existing flexibility in the corrective action program which can be used to accelerate cleanups.
- Fostering maximum use of program flexibility by actively encouraging States to adopt the regulatory flexibility in the recent VIR-media and Post-Closure rules, and by encouraging the use of a broad range of appropriate authorities and approaches for expediting corrective action.
- Enhancing community involvement in RCRA cleanups, including providing detailed information on cleanup progress for individual facilities on the Corrective Action website.

*Question C.* Do you plan to issue regulations to effect your changes to the corrective action program, or will you rely on guidance documents? If you intend to rely on policy memoranda and guidance documents, how do you plan to ensure compliance with the Congressional Review Act?

Response. EPA does not plan to make extensive regulatory changes. If there is a subsequent need for some targeted regulations, the Agency will pursue them on an as-needed basis. We have concluded that promulgating a comprehensive set of RCRA regulations at this time could unnecessarily disrupt the 33 States authorized for the RCRA Corrective Action Program, as well as those State programs that currently are undergoing review for authorization. Through the RCRA Cleanup Reforms described above in the response to Question 1B, we hope to develop a new atmosphere of partnership and cooperation among regulatory authorities, industry, and stakeholders.

EPA plans to announce its intention not to take final action on most of the proposed Subpart S rule [July 27, 1990 (55 FR 30798)] for corrective action for solid waste management units (SWMUs) at hazardous waste management facilities in the near future. EPA is taking that action because, among other reasons, the Agency has determined that such regulations are not necessary to carry out the Agency's duties under sections 3004(u) and (v).

EPA plans to rely on guidance and outreach to effect changes in the corrective action program. If EPA does determine that regulations are necessary, any final regulations will be submitted to both Houses of Congress and GAO as required by the Congressional Review Act (CRA). Since the enactment of the Small Business Regulatory Enforcement Fairness Act of 1996 that included the CRA, (SBREFA), Pub. L. 104-121, EPA consistently has interpreted the CRA as applying only to Agency actions that contain binding legal requirements, regardless of what those documents are titled or whether those documents are subject to statutory notice-and-comment rulemaking requirements. Thus, EPA has submitted to both Houses of Congress and to GAO under the CRA not only final regulations promulgated by the Agency, but also documents labeled "guidelines" that contain binding legal requirements, unless the document is expressly exempted from CRA coverage pursuant to 5 U.S.C §804(3).

In general, however, EPA does not intend its policy statements and guidance documents to be binding and they have no binding legal effect on the public. We prepare and issue these documents to provide information regarding an EPA regulation or enforcement position that may be useful to EPA employees and/or the public. The RCRA Corrective Action guidance that EPA already has issued is not legally binding. Moreover, at the present time, EPA does not plan to issue legally binding guidance with respect to the RCRA corrective action program.

Nonetheless, EPA intends to send to the Congress and GAO courtesy copies of all non-binding RCRA corrective action guidance documents as they are issued.

*Question D.* Are there specific problems or concerns relating to the corrective action program that you believe require legislation to address? If so, what are those problems or concerns and are you prepared to commit the staff and resources to work with this committee to address those problems and concerns?

Response. In 1993, EPA issued the Corrective Action Management Unit (CAMU) regulations to address RCRA remediation waste issues. EPA currently is exploring possible settlement of the litigation challenging these regulations. In the past, uncertainty over the litigation challenging the CAMU rule has led to discussion of legislation. Currently, EPA is waiting for the outcome of the settlement process before assessing the need for any legislative fixes to address RCRA remediation waste issues. Any dialog about whether there is a need for new legislation should consider this settlement process, RCRA regulations promulgated last year, and the RCRA Cleanup Reforms. Obviously, I will work with the committee to address remediation waste problems and concerns.

*Question 2.* In your testimony, you made a commitment to improve communications with this committee and, in particular, to consult with the committee before the Office of Solid Waste and Emergency Response announces or implements significant changes in policy. How do you plan to implement that commitment? For example, how will this new commitment affect your office's actions with respect to any policy decision made on the Subpart S regulations or the proposed modification to the CAMU rule?

Response. OSWER has frequent communications with the Senate Environment and Public Works Committee, and intends to continue these communications, particularly with respect to important changes in policy, such as those pertaining to implementation of the RCRA Cleanup Reforms (an outgrowth of the Subpart S Regulations) or any further changes to the CAMU regulations. For instance, OSWER continues to brief the committee on the progress of the CAMU and Subpart S regulations. With regard to the Subpart S regulation, EPA expects to issue by early Summer a notice announcing its intention not to take action on most provisions of the 1990 Subpart S proposal. EPA offers to brief the committee on this decision and its alternative plan for guidance. I have also asked my staff to brief committee staff on our plans for a Superfund Recycling Initiative. Finally, I will have my two deputies meet with committee staff on a periodic basis to discuss OSWER activities.

*Question 3.* In February, 1999, Administrator Browner testified before the committee regarding EPA's fiscal year 2000 budget. The committee recently receded answer" to a number of followup questions. The following questions seek additional information regarding OSWER budget priorities and plans that were lacking in the initial responses we received.

There is evidence that the Superfund National Priority List program is starting to "wind down." For example, the General Accounting Office reported in November that there were 232 sites nationwide that either EPA, the States or both believed would eventually be listed on the National Priority List.

*Question A.* You sense as the national program manager for Superfund. Do you agree that the scope of future additions to the Superfund NPL is likely to be closer to the 232 new additional site level projected in the November GAO report, a report that EPA concurred in, or will it be much larger or smaller than that? Please respond in detail.

Response. For clarification, the GAO report referenced in your questions did not contain any projections of the number of sites to be added to the NPL in the future. It would be accurate to say that the report identified 232 sites that State and Federal responders believed might be placed on the NPL. Moreover, the Agency continues to discover new sites every year. In fact, of the 26 sites newly proposed to the NPL this year, only 7 were identified as likely NPL candidates in the GAO report; 3 were even identified in the GAO category of "unlikely to be placed on the NPL" in the GAO study. Fifteen of the 26 were either among sites needing further investigation or were newly discovered.

Several factors are likely to affect the number of sites listed on the NPL in the future. Perhaps the biggest single variable is the percentage of sites States clean up. Likewise, private party cleanups can reduce the number of NPL listings. The willingness of States to support NPL listings is another key variable that also will affect how many sites are listed. Over the past 6 years, we have listed an average of 26 sites each year on the NPL. Last year, we proposed 34, and in fiscal year 1999 we may list up to 40 sites on the NPL. Therefore, I believe the GAO report reflects a reasonable estimate of the number of fixture NPL candidates over the next 5 years.



*Question B.* The written response from Ms. Browner's hearing stated that "significant work" remains at existing sites and that you do not know how many more sites will be added to the NEIL beyond the 40 new sites expected this year. However, both the Congress and EPA must make some assumptions about the future size of the program, such as funding levels, staffing levels, and anticipated remedial contractor requirements. Does your office have any strategies, studies, estimates, or plans that address the future of the program beyond fiscal year 2000? Please provide the committee with copies of all relevant documents.

Response. EPA expects to achieve 1,180 construction completions through 2005, assuming an annual appropriation of \$1.5 billion, and 85 construction completions each year. This projection is based on a combination historical performance, planning estimates contained in EPA's information systems, budget assumptions, and strong focus on an increased pace to achieve cleanups at NPL sites. The methods to implement the Agency's goals are presented in the President's annual submission of the proposed Superfund budget to Congress. This budget includes contractor and staff resources for cleanup/response enforcement, management and support, and research, as well as resources for other Federal agencies that carry out Superfund-related functions.

As stated in the Administrator's earlier response, we do not know how many sites we will list on the NPL each year. In order to maximize cleanups and environmental benefits, we depend on a number of approaches in addition to the NPL. We are committed to working tenth our state partners to determine what sites are most appropriate for the NPL. We will list sites on the NPL only after considering several factors, such as whether a site presents a serious threat to human health and the environment, whether a state requests EPA to list a site, or whether a state is unable or unwilling to conduct the cleanup. EPA's commitment to states also includes maintaining a strong site assessment program, not merely as a tool to list NPL sites, but as a way to encourage potentially responsible parties to work closely with States to achieve cleanups in lieu of NPL listing. As indicated in the response to the last question, the average number of listings has been 26 per year. However, there may be up to 40 this year. Therefore, a range of 26 to 40 sites per year is a reasonable assumption and generally consistent with the universe in the GAO report. EPA also foresees having a substantial role in post-construction related activities at NPL sites to ensure that implemented remedies remain protective in the future. As more sites complete construction, the use of resources will increasingly shift toward compliance and environmental monitoring and response work at facilities where waste remains place. Four documents related to the future of the program are attached: 1) elements of the Agency's Strategic Plan, 2) a table from the President's Budget Appendix, 3) Superfund elements of a multi-year briefing for the Deputy Administrator, and 4) the Superfund Contracts 2000 Decision memorandum.

*Question C.* EPA's response to my February questions state that EPA expects to continue the current pace of cleaning up 85 sites per year through 2004. Over the past 6 years, however, you have only added 26 new sites per year to the list. Is your 85 facility per year figure based on a facility-by-facility analysis of where each site stands in the cleanup process and/or is it based on historical averages and assumed funding levels? Please provide the committee with copies of all relevant documents, such as the names of the specific facilities and their projected construction completion dates, assumptions regarding funding or additions to the National Priority List, and any supporting data upon which such projections are made.

Response. EPA's projection of completing construction at 85 sites per year is based on a combination of historical performance, planning estimates contained in EPA's information systems, budget assumptions, and strong focus on an increased pace to achieve cleanups at NPL sites. As sites move through the Superfund pipeline, an increasing number of sites have construction underway. Assuming stable funding for the next six fiscal years, the program believes that, on the basis of sites currently under construction or with plans for construction, an average of 85 sites per year will reach the construction completion milestone. Attached are two lists of sites where construction completion may be met by 2005. The first is the list of sites we are tracking as candidates for construction completion in fiscal year 1999. The second list provides the candidate pool for additional construction completions in fiscal year 2000 through FY 2005, based on planning data. It is important to note that these data are projections (i.e., assuming optimal construction schedules, the availability of All Finding, completion of critical tasks), and estimates become less reliable when forecasted beyond 2 years. Also attached is the Superfund/Oil Program Implementation Manual which outlines the planning and implementation procedures for the Superfund program.

*Question 4.* Several followup questions from the February hearing addressed funding levels for RCRA corrective action. I asked how many more sites might have their human health or groundwater releases controlled if EPA devoted an additional \$15 or \$30 million to the corrective action program. EPA did not answer the question and merely said the levels in the "President's Budget are adequate." That response is not satisfactory.

In answering the following two questions, please assume an equal number of groundwater and human health releases are addressed. Also please account for any costs associated with the operation of the program in the 33 states with delegated authority. Please consult with committee staff if further clarification is needed in formulating a response.

*Question A.* Please provide the committee with a detailed estimate of how many additional sites could have their human health threats or groundwater releases controlled if Congress provided additional funding of \$10, \$20, or \$30 million dollars for this purpose?

Response. We believe Finding included in the President's fiscal year 2000 budget is adequate to keep the program on track to meet our 2005 GPRA Environmental Indicator goals. However, the Agency is currently conducting an internal mid-year review to determine accomplishments to date. Part of that review will focus on whether accomplishments to date and projected commitments will ensure that we achieve our 2005 targets. If it is determined that the 2005 targets are not achievable, the Agency plans to use the fiscal year 2001 budget process and the strategic plan revision process to make appropriate revisions. This approach directly reflects the revision process outlined in GPRA and OMB guidance and other materials.

In response to your specific questions, we have provided below our estimates of additional progress that could be achieved in the event that an additional \$10 million, \$20 million, or \$30 million dollars were available in the fiscal year 2000 budget. These estimates are very rough given the time constraints and they include EPA and State resources. It should be noted that, unlike Superfund, neither EPA nor the States can directly implement cleanups at Corrective Action facilities; therefore, the pace of a cleanup is not as directly under the regulator's control. We also are assuming that the funding level increase will remain stable for at least 5 years so that progress made 1 year on moving a site toward meeting environmental indicators (EIs) will not be lost by budget cuts and the inability to maintain staff who are working on the facilities.

The Agency is currently on an aggressive schedule to address human exposures at 95 percent of the high priority facilities by 2005. Therefore, we would apply any additional resources to addressing groundwater controls at these facilities. It must be recognized that as we approach the last of the high priority facilities, the groundwater controls will become increasingly difficult to attain since these will be the largest facilities with the most complex and challenging groundwater contamination. Therefore these last sites will require proportionally more resources and will require significantly more time to stabilize. Here are our estimates for achieving additional environmental indicators for groundwater releases controlled by the year 2005 given these caveats and assumptions:

Additional Funding for Achieving Environmental Indicators	Estimate of Additional Facilities Achieving Ground Water Releases Controlled by 2005
\$10 million .....	150
\$20 million .....	200
\$30 million .....	230

*Question B.* Please provide the committee with a detailed estimate of how many additional sites could have their human health threats or groundwater releases cleaned up if Congress prodded additional funding of \$10, \$20, or \$30 million dollars for this purpose?

Response. The ultimate goal of the RCRA corrective action program is to achieve final cleanup at all RCRA facilities. However, our near-term objective has been to stabilize the worst sites in order to prevent human exposures and to stem the migration of groundwater contamination. Consequently, we have not directly analyzed the resources required to bring RCRA facilities to final cleanup, and therefore any estimate of outputs is highly speculative. We believe the most useful way, at this time, to estimate the final cleanup costs is to look at the experience of the Superfund program. Specifically, we believe the EPA oversight costs associated with

a Potentially Responsible Party (PRP) cleanup may be an appropriate representation of the costs and timing that will be incurred for a RCp.A corrective actionsite. In the Superfund program, it takes an average of 8 years from the time a site is listed on the NPL to reach the point where construction is completed for the final remedy. We evaluated the pricing model for Superfund sites, and made some adjustments to reflect differences between the two programs to more accurately project possible RCRA outputs. The following table presents the estimated number of additional cleanups by 2008 that might result from the additional funds levels presented in your question. (Of course, between now and 2008 we expect to bring a number of facilities to construction of final remedies under current funding levels; however, we do not have projections of this number.) The following estimates assume stable funding through the 8-year period necessary to complete the cleanup work at these sites.

Additional Funding for Final Remedy Selection	National Estimate of Additional Facilities With Construction Completion by 2005
\$10 million .....	90
\$20 million .....	180
\$30 million .....	270

RESPONSES BY TIMOTHY FIELDS, JR. TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

*Regarding the HWC MACT Standards*

*Question 1(a).* In the latest letter Senator Wyden and I sent you on the hazardous waste combustion MACI Standard, we asked if you had data on cement kilns and feed rates. Your response again refers us to data from a single experimental incinerator. Does the Agency have any data on cement kilns and feed rates, not incinerators, and was this data used in the rulemaking process?

Response. The data we provided (cement kiln emissions and feedrate data for the semi-volatile metals (SVM), i.e., lead and cadmium) were used in the rulemaking process to confirm our engineering judgment that there is a positive relationship between metals feedrate and metals emissions. Our judgment is based, in part, on the fact that metals are not destroyed by combustion in a cement kiln and that they do not partition solely to the cement or cement kiln dust based on studies we reported to Congress in 1994. Therefore, we concluded that metal emissions must increase as metal feedrates increase. I have attached the "Draft Technical Support Document for HWC MACT Standards CODA": Volume III: Evaluation of Metal Emissions Data base to Investigate Extrapolation and Interpolation Issues, April 1991." In this document, Figures 15-20, 22a, 22b, and 27 all contain SVM metals emissions and feedrate relationship data.

We highlighted the information on this one specific incinerator in our response because this is the only data we have from a facility specifically attempting to document the relationship between metals feedrate and emissions. This positive relationship also holds true for data we have from some cement kilns (see relationship in Figure 15 and general increase in emissions with feedrate in Figures 17, 22a, and 22b for cement kilns).

*Question 1(b).* If you do not have separate data on cement kilns, then please explain how the incinerator data was used for the cement kiln standards considering the Agency felt the differences between the two categories was great enough to warrant separating cement kilns and incinerators into two separate categories.

Response. The incinerator data can be used to determine the positive relationship between emissions and feedrate for all types of combustors because the relationship between metals emissions and feedrate is the same for all types of combustion systems. To determine the relationship between metals feedrate and emission rate, we evaluated the theoretical potential for emissions and the empirical data in the HWC data base. We concluded that there must be some type of direct, positive relationship between metals feedrate and emissions. Metals cannot be destroyed in the combustion process, and assuming the system must reach some type of equilibrium, metals cannot accumulate in the system without reaching a saturation limit. Additionally, the theory predicts that the relationship will be proportional over a large range of feedrates (an increase in feedrate produces a consistent incremental increase in emissions). A flat or negative relationship (that emissions decrease as feed increases) is not physically possible. Although there are some additional data that

would support this, we could not be sure that the additional data had been obtained under sufficiently controlled conditions that are required for the purpose of demonstrating the relationship. Therefore, we concluded that the available data for an individual combustor confirms a positive relationship between SVM feedrate and emissions.

In 1992, the Agency established separate source categories for Portland cement manufacturing and hazardous waste incineration as major emitters of hazardous air pollutants. These sources have fundamental differences in design and operation that can affect the types and concentrations of some hazardous air pollutants and control measures. For example, Portland cement kilns have much higher emissions of organic HAPs that are attributable to desorption from raw material than hazardous waste incinerators. Further, although controlling the feedrate of metals and chlorine is a practicable control measure for hazardous waste incinerators, existing Portland cement kilns cannot practicably control the feedrate of metals and chlorine in raw materials. (Hazardous waste fuel metal content is controllable.)

*Question 2.* In our latest letter, we also asked you for materials on the technical objections the Air Office might have raised to your approach. You refused to produce the material claiming it is "deliberative". Because this MACT standard is different from all previous MACT standards which have been issued by the Office of Air and Radiation, it is important for the committee to understand the rationale used to develop this standard, in particular the rationale differences between this standard and the other MACT standards. Unless the Administration is claiming "executive privilege" please provide the committee with any documents involving disagreements or "nonconcurrences" between EPA's Office of Air and Radiation and EPA's Office of Solid Waste and Emergency Response pertaining to the SVM standard for cement kilns.

*Response.* The requested documents are attached. These documents represent predecisional discussions, often at the staff level, and contain the normal give and take of technical and scientific debate. Ultimately, all of the staff reached a consensus regarding the approach contained in our current draft of the final rule, and the Office of Air and Radiation concurred on the rule.

We believe it would be extremely harmful to the Agency if these materials were released to the public by the committee. It would chill future legitimate scientific and policy debate within the Agency, could suggest that final decisions have been made when the decision process is not complete, and dramatically and unnecessarily increase our workload (by generating questions from the public regarding the content of these documents that will be answered in our final rule and docket). It would be particularly unfortunate to create this distraction for the Agency at a time when we must focus on completing a rule that already has taken well beyond the date that we promised in order to settle litigation on this subject.

*Question 3.* Please explain why the Office of Solid Waste and Emergency Response has had the lead responsibility for the HWCMAI standard instead of the Office of Air and Radiation. In particular please explain why your Office had the lead for this standard and not the MACT standards for municipal solid waste or the medical incinerators.

*Response.* OSWER has had the responsibility under RCRA for emissions from incineration of hazardous waste for over 20 years and has thereby developed specialized scientific and technical expertise. Under Section 3004 (a) and (q) of the 1984 amendments to RCRA, the EPA was assigned the direct responsibility to establish air emission standards for hazardous waste incinerators and kilns burning hazardous waste as fuel. General authority to address emissions from hazardous waste incinerators has existed in RCRA since 1976. OSWER, as the EPA office charged with implementing these requirements, issued its first regulation for incinerators in 1981. Therefore, given OSWER's historical role in writing air emission standards for these types of facilities it was logical that OSWER would take the lead responsibility for the HWC MACT standards. The Office of Air and Radiation (OAR) agreed to support OSWER in the development of the CAA MACT standards in two ways—generally applicable engineering principles applicable to combustion and air pollution control devices, if and when appropriate, and also with respect to the procedures used to determine MACT floors and beyond the floors.

For municipal solid waste incinerators and medical incinerators, OSWER has no expertise in regulating air emissions from these sources and OAR has that type of previous experience in assessing control options for these source categories, therefore, the Agency has used OAR to develop the MACT standards for this class of units. Each of these decisions is weighed with respect to experience, current workload, and other administrative factors to make sure that the Agency's resources are deployed in a reasonable and effective manner.

*Regarding the Risk Management Plans*

*Question 1.* Because the Administration has been so late in responding to the security concerns will you issue a stay for the reporting deadline for all respondents to match the stay the Court gave the propane industry, until the security issue can be properly addressed?

Response. On May 7, 1999, the Department of Justice transmitted to you and other Members of Congress a draft bill entitled "Chemical Safety Information and Site Security Act of 1999."<sup>7</sup> This draft legislation is the product of an interagency group, convened by the Department of Justice which included representatives from the Environment Protection Agency, the Office of Management and Budget, the National Security Council, and several components of the Department of Justice, including the Federal Bureau of Investigation. The proposal would continue to permit appropriate dissemination of the offsite consequence analysis information, within some limits, without introducing unnecessary risks to public safety. We hope that it will be considered quickly and enacted.

Since facilities have had 3 years to address risk management program requirements, the Agency does not believe that a stay in the reporting deadline would be in the best interest of chemical safety. The Agency already has received voluntary submission of approximately 500 Risk Management Plans.

*Question 2.* In my followup questions to the March 16, 1999 Risk Management Plan Hearing I asked you:

"During the hearing, we had testimony from the President's of the American Farm Bureau and the National Propane Gas Association contradicting the EPA estimates of the number of facilities which will be required to report on propane. Apparently the North Carolina Department of Environmental Resources has estimated that 11,000 farm facilities in North Carolina alone will be required to report. Please provide an updated EPA estimate of the number of propane facilities (all types of facilities) and an explanation for the discrepancies in the estimates."

You responded by stating that the American Farm Bureau and the National Propane Gas Association had contradicted each other. If you reread their statements you will see that they did not contradict each other. The Farm Bureau's 10 percent figure was used to illustrate the estimated costs. Please reexamine your response to this question and provide the updated estimate.

Response. EPA assumed from your origins followup question that the 10 percent figure in the American Farm Bureau (AFB) testimony was not only illustrating their estimate of the cost of the Risk Management Program (RMP) rule but was also an estimate of the number of farms covered by the RMP rule, since it contradicts EPA's estimates. EPA also asks Congress to recognize that the information in correspondence between the North Carolina Department of Agriculture and EPA has been mischaracterized and used incorrectly in cost and covered universe estimates. The National Propane Gas Association (NPGA) testimony states: "The North Carolina Department of Agriculture sent a letter to EPA on November 9, 1998 stating that in North Carolina, approximately 11,000 farms use propane to cure tobacco. In other words, a single propane user sector—farmers—of a single propane use—curing tobacco—in a single state totals nearly 33 percent of EPA's entire national estimate for propane." (Emphasis in original). NPGA does not misquote the letter, but the reader is led to believe that all 11,000 farms handle more than 10,000 pounds of propane and would be covered by the RMP rule. But the letter itself never reaches this conclusion. Additional data subsequently received from the North Carolina Department of Agriculture makes it clear that far fewer than 11,000 farms are actually covered by the RMP rule. North Carolina indicated that only 155 farms (of all types) have greater than 5,000 gallons (about 21,000 pounds) of propane in a single tank or greater than 4,000 gallons aggregate (about 17,000 pounds)—No data was available on the number of farms having more than 10,000 pounds but less than 17,000 pounds, or the number of farms having less than 10,000 pounds of propane. Therefore, to estimate the number of farms potentially covered by the RMP rule nationwide (those handling more than 10,000 pounds), EPA used the 155 North Carolina farms as a basis along with state-by-state propane sales data and the knowledge that North Carolina consumes far more propane for farm use than the national average. EPA believes using the North Carolina and propane sales data this way creates a reasonable estimate of the number of farms potentially covered by the RMP rule. EPA recognizes that more than 155 farms in North Carolina may handle more than 10,000 pounds of propane; however, even if an exact count were available, basing a national estimate solely on North Carolina data would grossly overestimate the number of farms potentially covered because North Carolina consumes more propane for farms than all other states. Our current estimates of the number of facilities, including farms, handling more than 10,000 pounds of propane are as follows:

Estimate of propane facilities covered by the RMP rule tenor to the court stay):  
 Number of Retail facilities = 12,500  
 Number of Non-farm Users = 16,100  
 Number of Farms = 5,300  
 Total = 33,900

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RESPONSES BY TIMOTHY FIELDS, JR. TO ADDITIONAL QUESTIONS FROM SENATOR SMITH

*Question 1.* You are aware of my concerns regarding parties left facing joint and several liability after EPA settles with de minimis and other parties. EPA opposed bi-partisan legislation last year that would have established a fair share allocation system dealing fully with this problem. As you know, I am especially concerned about third-party contribution actions where PRPs who have signed Consent Decrees with EPA sue parties who did not join in the settlement.

EPA's current policy—letting some polluters off the hook and providing inadequate orphan share to others—exacerbates rather than ameliorates the system's unfairness. As you know, mandatory orphan share, mixed funding agreements and forgiveness of past costs do not fully address the unfair contribution suit problem. What new ideas have you developed since our meeting to help those victimized by large PRPs in third-party contribution suits?

Response. Through EPA's Administrative Reforms, the Agency has succeeded in making Superfund fairer and cutting litigation for small parties. For example, through Administrative Reforms we have developed our Municipal Solid Waste Settlement Policy, which allows generators and transporters of municipal solid waste to settle with the Agency for a flat rate of \$5.30 per ton. In addition, we have instituted the Orphan Share policy, under which we provide a contribution in lieu of insolvent and defunct parties at each eligible settlement, up to 25 percent of the cost of the proposed remedy. The President has continuously requested additional funds for this purpose each year as a part of EPA's budget. Our de minimis and de micromis policies continue to be effective in protecting parties from contribution suits—we have settled with over 18,000 of these parties. Finally, we continue to approve ability-to-pay settlements, for those parties who can show financial hardship, in order to provide contribution protection to these parties.

Even so, in some circumstances parties that should never have been subject to the Superfund liability web are unfairly targeted by large PRPs in third-party contribution suits. Legislation to exempt innocent landowners, prospective purchasers, contiguous property owners, and small businesses and homeowners that sent household waste from CERCLA liability would provide more fairness and greatly reduce third-party litigations against small parties. EPA also supports giving the Agency authority to spend \$200 million a year to provide orphan share funding to encourage settlements at Superfund sites.

*Question 2.* EPA's Superfund Reforms Annual Report fiscal year 1998 concludes that flexibility in the fair share allocation process to address site-specific issues is critical. EPA supported a prescriptive bill in the 103d Congress. Would EPA support legislation containing a more flexible allocation system in this Congress?

Response. As part of its Superfund Administrative Reforms, EPA undertook 12 pilot allocation projects to 'test drive' the allocation provisions of the 103d Congress. Our experience with the pilots has shown us that prescriptive, mandatory allocations are generally not conducive to reaching expedient settlements. In addition, at many sites, allocations are simply not necessary, and may lead to delays and increases in transaction costs for all parties involved. As a result, a statutory allocation system is not something we find that the Superfund program needs now. EPA also supports giving the Agency authority to spend \$200 million a year to provide orphan share funding to encourage settlements at Superfund sites. The President's fiscal year 2000 budget request fits \$200 million for orphan share funding.

*Question 3.* The GAO testified earlier this year before the House in a hearing at which you also appeared. GAO testified that "completion of construction at existing sites" and reducing new entries into the program was EPA's top Superfund priority. Do you agree with GAO's characterization in this regard? If not, why not?

Response. Completion of cleanup construction at existing Superfund sites has been and continues to be the top priority for the program. The Agency's 1997 Strategic Plan has identified construction completions as a major goal for the program. EPA has not identified "reducing new entries into the program" as a top Superfund priority, as GAO seems to have stated. EPA Administrator Browner and others have noted, however, that the program is maturing. Evidence of this is the fact that the

slumber of sites added to the CERCLIS Inventory for Superfund assessment has declined in recent years. As late as the mid-1990's, over 1,000 sites were added to CERCLIS annually. The average for the past 2 years was approximately 500 sites per year.

*Question 4.* EPA agreed "with the basic findings and recommendations" of a November 1998 GAO report stating that there are still 3,036 sites awaiting an NPL listing decision by EPA, 73 percent of which have been in CERCLIS for more than a decade.

*Question A.* How many of those sites will be the subject of a listing decision this year?

Response. Since March 1998 (when the GAO began their audit), EPA has proposed 60 sites to the NPL. Slightly under half of these proposed sites came from the GAO survey universe of 3,036 sites. EPA is working with States to make decisions on the remaining sites in the audit universe over the next several years, but until we have consulted with all the States, we cannot provide a definitive schedule for completion of this effort.

As an immediate response to the audit, EPA identified nearly 600 sites that could potentially require removal actions, performed file reviews of these sites, and determined that 47 of these sites needed an onsite assessment. Those 47 sites are currently being scheduled for inspections, to determine what, if any, removal activities are needed.

*Question B.* When do you anticipate completing the evaluation of the remaining sites?

Response. EPA anticipates that the evaluations for some regions (those with approximately 100 sites) will be completed next year. For several regions with a larger number of sites, however, the evaluations will take several years. These evaluations also must be prioritized with evaluations of other sites not part of the GAO audit universe. (States identify about 500 sites a year that need assessment.)

To avoid duplication of effort, and enhance the role of States in the process, EPA is holding meetings with State officials in an effort to divide up the GAO universe and allow States to take the lead on many of the GAO audit sites. EPA will then assess the remaining sites. Some of these discussions are occurring now and EPA and States will need to establish individual schedules based on resource and funding constraints. EPA committed to GAO that the Agency would prepare a status report by 2/28/00 on how regions and States are proceeding.

*Question C.* GAO further stated in their November 1998 report that EPA regional employees and other officials believe 1,234 of those sites are "unlikely" to become eligible for the NPL. What is your estimated schedule for archiving those sites?

Response. EPA agreed to archive those sites that are not eligible for the NPL by the end of Fiscal Year 1999. EPA did not agree to immediately archive other sites in the "unlikely" category that are generally undergoing State cleanups. Archiving this group is appropriate only after the cleanup has been completed. Indeed, some States have asked that EPA keep these sites in CERCLIS until cleanup is complete, to help ensure that those cleanups are completed successfully. Moreover, while many sites in that category might be safely archived, EPA will need to evaluate each site individually. So far, EPA has proposed 9 sites to the NPL that were included in the "unlikely to be eligible" category. The States supported the listing in all 9 cases.

*Question D.* GAO recommended that EPA and the States "should develop a Joint strategy for addressing these sites." EPA specifically concurred in this recommendation.

I. When will you have this strategy finished?

II. With which State organizations are you working?

Response. EPA regions are working with each State to assign leads for each of the sites in the audit. We will issue a status report by February 28, 2000, and will have all sites assigned as soon as these discussions are completed. In addition to working with each of the affected States, we have discussed our plans with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) as well.

D(a). Please consult with committee staff during development of this strategy.

Response. I will have my staff consult with the committee staff as we develop this strategy.

*Question 5.* In response to questions submitted after the budget oversight hearing on February 24, EPA stated that it expects to list 40 sites on the NPL this year, even though historically the average has been 26. In fact, EPA expects to achieve this 53 percent increase in site listings at the same time EPA's budget request is 30 percent less than it was last year. That appears to be a reallocation of resources

and priorities based on a combination of increased efficiencies through your administrative reforms and the fact that the cleanup program is ramping down.

*Question A.* How many site assessments did EPA, either by contract or cooperative agreement, perform in fiscal year 1998?

Response. See table below.

*Question B.* How many site assessments do you anticipate performing in fiscal year 1999?

Response. See table below.

Number of Superfund Site Assessments Funded by EPA  
(Contractors and Cooperative Agreements)

Assessment Type	FY 1998 (Actual)	FY 1999 (Estimate)
Pre-CERCLIS Screening <sup>1</sup>	1,205	1,006
Preliminary Assessment <sup>2</sup>	330	387
Site Inspection <sup>3</sup>	549	704

<sup>1</sup> Source SCAP-13 Report

<sup>2</sup> Pre-CERCLIS Screening activities involve cursory evaluations to ensure that only sites requiring Federal Superfund assessment work get added to the EPA's Comprehensive Emergency Response, Compensation and Liability Information System (CERCLIS) data set.

<sup>3</sup> Preliminary Assessments involve collection and review of available technical and site history information at sites added to CERCLIS to determine whether a threat or potential threat exists.

<sup>4</sup> Site Inspections involve collection and review of more detailed data, and generally include additional sampling information to confirm the presence of hazardous waste.

*Question C.* What are your projections for annual site assessments for fiscal years 2000–2005?

Response. While EPA has not made projections for the specific number of site assessments in the future, we have estimated the number of final assessment decisions through fiscal year 2005 as part of the Agency's reporting under the Government Performance and Results Act (GPRA). Final assessment decisions are tracked to identify sites with completed Superfund site assessment activities (e.g., no further action, deferral to RCRA, proposal to the NPL, etc.) Final assessment decisions are an end product of individual assessment activities, such as Preliminary Assessments and Site Inspections.

The following table shows the number of final site assessment decisions made in fiscal year 1998 and the number of decisions we estimate for each year from fiscal year 1999 through fiscal year 2005 as part of our GPRA planning efforts.

Final Assessment Decisions Developed for GPRA Reporting

Fiscal Year	No. of Final Site Assessment Decisions
FY 1998	486 (Actual)
FY 1999	530 (Estimate)
FY 2000	530 (Estimate)
FY 2001	530 (Estimate)
FY 2002	530 (Estimate)
FY 2003	530 (Estimate)
FY 2004	530 (Estimate)
FY 2005	530 (Estimate)

*Question D.* What are your projections for annual listing decisions in fiscal years 2000–2005?

Response. It is hard to project future listing decisions on a year-by-year basis since there are so many variables involved in making listing decisions. In addition to technical site conditions, we believe it is important to consider factors such as State support, cleanup work performed by potential responsible parties, and Federal funding and staffing resources when projecting future listing decisions. More recently, we've raised our internal fiscal year 1999 estimate of new proposals of up to 40 sites. The average number of listings for the past 6 years has been 26 per year, so a range of 26 to 40 sites per year for fiscal years 2000–2005 appears to be a reasonable estimate.

*Question 6.* Your testimony and EPA's "Superfund Reforms Annual Report for fiscal year 98" estimates future cost reductions or savings of more than \$1 billion due to remedy reforms. The Annual Report states that "EPA expects these savings estimates to increase as regions complete their analyses."



*Question A.* Given that this reform was initiated in 1995 and average cleanup time ranges between 8 and 10 years, should we anticipate realizing the bulk of those life-cycle cost savings during the next 5 years?

Response. The more than \$1 billion estimate reflects savings from two administrative reforms, Remedy Updates (over \$1 billion from more than 200 reviews) and the National Remedy Review Board (over \$40 million from 33 reviews). The timing of the savings and the beneficiary of the savings vary from site to site. Remedy Update savings are most likely to accrue faster because the proposals are for updates to existing Records of Decision (RODs) for sites/projects that can be in the design or construction phases, or in operation and maintenance (e.g., ground water pump/treat actions). Reviews by the National Remedy Review Board (NRRB) occur during or after the Remedial Investigation/Feasibility Study, but prior to ROD signature. These savings will occur during the remedy implementation phase and in most instances would be within the 5-year window cited. For both Remedy Updates and CURB Reviews, the beneficiary of the savings can either be the Superfund Trust Fund for a fund-financed response, or a Potentially Responsible Party or over Federal Department when they are financing the remedy.

*Question B.* At how many other sites do you expect to replicate these savings?

Response. Remedy Updates and the NRRB remain active reform initiatives under the Superfund process. The NRRB has reviewed an average of about 12 sites per year and we expect that trend to continue. Remedy Updates have averaged about 65 updates per year for the past 3 years and we hope they will continue at a similar pace, depending on the demand.

*Question C.* What additional savings do you expect to realize through administrative reforms in remedy selection and other areas?

Response. As noted above, we expect Remedy Updates and NRRB reviews to continue. It is anticipated that these projected annual cost savings will continue to be several hundred million dollars. Remedy selection guidance reforms (e.g., Presumptive Remedies), are intended to streamline the response process or clarify performance expectations and improve consistency, thereby saving both time and money. Over Administrative Reforms have, and will continue to result in cost reductions for PRPs undertaking response actions. These include guidance on future land use, streamlining PRP oversight, and orphan share compensation.

*Question 7.* There are currently 1,264 sites on or proposed for the NPL. The GAO report referenced above, in which EPA concurred, states that a maximum of 232 sites are likely to be added to the NPL. EPA's answers to questions for the record of the February 24th budget oversight hearing stated goals of:

40 site listings per year;

85 construction completions per year, and

completing construction at 1180 sites by the end of fiscal year 2005

Assume that all of the sites GAO expects to be added are added to the NPL. Please provide this committee with estimates for Superfund funding needs in light of the GAO data, projections for construction completions, and any future expected cost savings due to remedy or other administrative reforms. Please provide separate estimates for direct response action costs, indirect costs, and inter-agency transfers.

Response. EPA expects to achieve 1,180 construction completions through 2005, assuming an annual appropriation of 1.5 billion. This projection was based on a combination of historical performance, planning estimates contained in EPA's information systems, budget assumptions, and strong focus on an increased pace to achieve cleanups at NPL sites. The methods to implement the Agency's goals are presented in the President's annual submission of the proposed Superfund budget to Congress. This budget includes contractor and staff resources for cleanup/response, enforcement, management and support, and research, as well as resources for other Federal agencies that carry out Superfund-related functions.

As stated in the Administrator's earlier response, we do not know how many sites we will list on the NPL each year. In order to maximize cleanups and environmental benefits, we depend on a number of approaches in addition to the NPL. We are committed to working with our State partners to determine what sites are most appropriate for the NPL. We will list sites on the NPL only after considering several factors, such as whether a site presents a serious threat to human health and the environment, whether a State requests EPA to list a site, or whether a State is unable or unwilling to conduct the cleanup. EPA's commitment to States also includes maintaining a strong site assessment program, not merely as a tool to list NPL sites, but as a way to encourage potentially responsible parties to work closely with States to achieve cleanups in lieu of NPL listing. EPA also foresees having a substantial role in post-construction related activities at NPL sites to ensure that implemented remedies remain protective in the future. As more sites complete con-

struction, the use of resources will increasingly shift toward compliance and environmental monitoring and response work at facilities where waste remains in place.

The fiscal year 1999 enacted \$1.5 billion budget includes \$1.005 billion for contractor and staff resources for cleanup/response, \$145 million for EPA enforcement, \$135 million for management and support, including audits, \$40 million for research and development, and \$175 million for other Federal agencies that carry out Superfund-related functions. We expect the proportions of Superfund resources allocated to each of these categories to remain stable through FY 2005.

Although we expect Superfund Reforms, such as Remedy Updates and National Remedy Review Board reviews, to continue through 2005, it is not possible to project the level of estimated savings from future actions. Remedy selection guidance reforms (e.g., Presumptive Remedies) are intended to streamline the response process or clarify performance expectations and improve consistency, thereby saving both time and money. Other Administrative Reforms did, and will continue to, result in cost reductions for PRPs who undertake response actions.

#### EPA'S STRATEGY FOR ENFORCEMENT OF REGULATORY REQUIREMENTS APPLICABLE TO UNDERGROUND STORAGE TANK (UST) FACILITIES

AUGUST 10, 1998

This document describes the U.S. Environmental Protection Agency's (EPA) strategy for enforcing the regulatory requirements applicable to underground storage tanks (USTs) as of December 1998. EPA will work with States and, as necessary, augment State efforts by taking Federal action.

This document was developed jointly by EPA's Office of Underground Storage Tanks (OUST) and Office of Enforcement and Compliance Assurance (OECA), in concert with Regional Office UST program managers and enforcement coordinators.

#### *Background*

By December 22, 1998, all USTs installed before December 22, 1988 that are not already protected against corrosion, spills, and overfills must be upgraded, replaced, or properly closed. The EPA Administrator has already announced that the Agency will not extend the deadline. Other UST regulatory requirements, including those for release detection, financial responsibility, and reporting and remediation of UST releases will remain in effect. In the Code of Federal Regulations (CFR), EPA's requirements appear in 40 CFR Part 280.

EPA can enforce the Federal requirements in States and territories that do not have EPA's approval to run their own UST programs in lieu of the Federal program, and in Indian Country. In approved States and territories, EPA can enforce State regulations that were included in the State Program Approval process, even if they are more stringent than the corresponding Federal regulations. The Agency cannot enforce State regulations that are broader in scope than the Federal regulations, e.g., those applicable to UST systems not covered by the Federal regulations, such as heating oil tanks for direct consumptive use.

EPA's goal is full compliance with the 1998 requirements as quickly as possible. EPA does not and will not condone non-compliance. EPA's regulations do not provide for a grace period in which violations can be corrected without a penalty. By December 1998, UST owners/operators will have had 10 years to comply with these requirements. During this 10-year period, EPA conducted extensive outreach activities to inform the regulated community of the upcoming 1998 technical requirements and provided compliance assistance to owners and operators of UST facilities. Given the threat that sub-standard tanks pose to human health and the environment, EPA believes it is essential to ensure that violations are promptly corrected.

#### *What EPA expects States to do*

The philosophy that has guided the UST program since its inception is that States have the primary responsibility for implementation and enforcement of UST regulations (except in Indian Country). EPA therefore has devoted a major share of its UST resources to supporting and helping strengthen State programs and will continue doing so.

EPA expects States to take the lead in securing compliance with the 1998 UST requirements. EPA recognizes that States can use various enforcement activities to achieve compliance. These enforcement activities can include filing administrative or judicial actions or immediately stopping operation of a non-complying tank (e.g., by using their "red tag" authority). Some States do not have statutory authority to

assess and collect penalties administratively and must initiate a judicial action if penalties are to be assessed. While the judicial process may be time-consuming, States should use their enforcement authority to demonstrate to UST owners and operators that they cannot ignore UST requirements with impunity.

In the months leading up to the December 1998 deadline, EPA expects that States generally will continue to monitor and enforce compliance with UST requirements already in effect, including those for release detection; remind UST owners/operators of their obligation to upgrade, replace, or properly close sub-standard UST systems; make UST owners/operators aware that enforcement action will be taken against those who miss the deadline; and, in concert with EPA Regional Offices, develop plans for post-deadline compliance and enforcement activity.

EPA expects that States will expeditiously identify non-complying UST facilities, including marketers and non-marketers, after the deadline and require those facilities to be promptly upgraded, replaced, or properly closed.

States with UST programs that lack UST regulations or a fixed deadline for upgrading, replacing, or closing sub-standard UST systems should work with EPA Regional Offices to develop procedures for dealing with violations; such procedures may include referring cases to EPA for appropriate action.

#### *EPA will continue to assist States*

EPA is prepared to assist States in carrying out their UST compliance and enforcement responsibilities by continuing its own extensive outreach to UST owners/operators; helping States train UST inspectors; fostering exchanges of information among the States about effective means of securing compliance; and supporting States' efforts to design and implement cost-effective ways of increasing their field presence.

#### *When EPA will take action*

Under RCRA Subtitle I, EPA has the authority to and will inspect UST facilities in order to assess compliance with the UST regulations. While EPA may take enforcement actions in all States, its activities will be concentrated in States that have less active UST enforcement programs. EPA also will try to be responsive to requests from any State for support in dealing with Federal agencies or other UST owners/operators who are resistant to State compliance efforts.

Factors the Agency will consider in deciding when and where to conduct inspections will include UST compliance levels and the level of States' compliance and enforcement presence. EPA's Regional Offices will be responsible for selecting the States in which Federal action will be undertaken. Regional Offices will have continuing communication with States about the status of State compliance and enforcement activities. EPA will give notice to State officials before undertaking UST inspections or initiating UST enforcement actions (other than issuance of field citations) in accordance with the agreements States have with EPA (e.g., State Program Approval Memorandums of Agreement).

Because EPA believes it is essential that Regional Offices have latitude in deciding where to initiate Federal actions, the Agency will not establish criteria for such decision-making. Some degree of consistency from one Regional Office another is nevertheless important; EPA believes that such consistency can be achieved through ongoing communication between EPA Headquarters and Regional Offices.

EPA will continue to monitor and enforce UST compliance in Indian Country. Enforcement activities in Indian Country generally will be guided by this strategy. UST facilities not owned and operated by Native American Tribes will be subject to enforcement action in the same manner as UST facilities elsewhere in the U.S. Tribally owned and operated UST facilities will be subject to enforcement action in accordance with EPA's Indian Policy Implementation Guidance issued on November 8, 1984.

EPA will also conduct UST inspections and issue administrative penalty orders or field citations at Federal facilities using newly clarified Subtitle I authorities. RCRA provides penalty and order authority to EPA for use against Federal agencies for violations of UST requirements. States should also inspect Federal facilities and, as appropriate, issue compliance orders.

#### *How EPA will deal with non-compliance*

After December 22, 1998, it will be illegal to operate UST systems that are not equipped to protect against corrosion, spills, and overfills. Owners/operators who miss the deadline must bring sub-standard UST systems into compliance by upgrading, replacing, or closing them. If EPA finds them in violation, they will be subject to monetary penalties for periods of non-compliance.

EPA's goal is to ensure that sub-standard UST systems are brought into compliance by the regulated community. When UST owners and/or operators fail to comply

with the 1998 deadline requirements, EPA will initiate enforcement actions to ensure prompt compliance with the UST regulations. EPA's position is not to allow continued operation of sub-standard UST systems after December 22, 1998. Toward that end, EPA takes the position that sub-standard UST systems should be temporarily closed until the work necessary to upgrade, replace, or permanently close them is completed. Alternatively, EPA may refer the matter to the State UST implementing agency where a State has the authority to shut down such an UST facility without initiating administrative or judicial proceedings.

In pursuit of its goal, EPA will use all the enforcement tools available for dealing with UST violations, including, administrative and judicial enforcement actions. Judicial enforcement actions are particularly appropriate in situations involving recalcitrant parties. The Agency may use field citations in some circumstances for a limited period of time after the December 1998 deadline. In situations where the inspection shows that a release has occurred or is occurring, EPA's regulations require owners/operators to take immediate action to prevent any further release, as well as other steps to respond to the release. EPA can use RCRA Secs. 7003, 9003(h), or 9006, to issue administrative orders to require cleanup or initiate judicial action requesting temporary or permanent injunctive relief. EPA can also use Sec. 9005 information request letters to gather information from owners/operators of UST facilities.

#### *Temporary closure and upgrading after 1998*

UST owners/operators can comply with the Federal regulations by upgrading, replacing, or properly closing (either permanently or temporarily) their sub-standard USTs. During the time in which an UST system is temporarily closed, it is permissible to upgrade, replace, or permanently close it. If the period of temporary closure of a sub-standard UST system extends past December 22, 1998, the UST must be upgraded or replaced before it can be legally operated.

EPA's regulations allow a sub-standard UST system to remain in temporary closure for a maximum of 12 months unless the owner-operator completes a site assessment and obtains an extension from the responsible UST implementing agency; States and the EPA are not obliged to grant such extensions. EPA's position is that sub-standard UST systems, that have not been granted an extension by the implementing agency, should not remain in temporary closure beyond December 22, 1999, even if the USTs were placed into temporary closure after December 22, 1998.

#### *Other Settlement and Enforcement Policies*

In appropriate circumstances, EPA may use the Agency's "Interim Policy on Compliance Incentives for Small Businesses" (June 3, 1996)(61 FR 27984)(Small Business Policy); "Policy on Flexible State Enforcement Responses to Small Community Violations" (November 22, 1995)(Small Community Policy); "Supplemental Environmental Projects Policy" (May 1998)(SEP Policy) and the Ability to Pay guidances, in settlements of UST enforcement cases. These policies can be used for settlement purposes only; they are not used for pleadings or at hearings or trials. Copies of the EPA settlement policies are also available through EPA's Internet site at <http://www.epa.gov/OECA>.

This document does not establish or modify any regulatory requirements; it provides guidance on policies and procedures but does not constitute final Agency action on any matter. It also is not intended, and cannot be relied upon, to create any right, benefit, or trust responsibility enforceable by any party in litigation with the United States.

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#### MEMORANDUM—ENVIRONMENTAL PROTECTION AGENCY

*December 9, 1998*

SUBJECT: EPA's Inspection and Compliance Assistance Priorities For Underground Storage Tank Systems Not Meeting The 1998 Deadline,

FROM: Steven A. Herman, Assistant Administrator, Office of Enforcement and Compliance Assurance

To: Timothy Fields, Jr., Acting Assistant Administrator for the Office of Solid Waste and Emergency Response

To: Regional Administrators, Regions I-X

This memorandum clarifies some aspects of the August 10, 1998 memorandum entitled, "Underground Storage Tank 1998 Deadline Enforcement Strategy." In particular, this memorandum provides EPA Regional Of flees guidance on the subsection of the strategy entitled "When EPA will take action" which contained the following:

Because EPA believes it is essential that Regional Offices have latitude in deciding where to initiate Federal actions, the Agency will not establish criteria for such decisionmaking. Some degree of consistency from one Regional Office to another is nevertheless important; EPA believes that such consistency can be achieved through ongoing communication between EPA Headquarters and Regional Offices.

As part of that ongoing communication, today's memorandum reflects a continuing assessment of UST compliance levels and the best ways for EPA to use its limited resources to reach underground storage tank (UST) program environmental goals. The attached document provides further background information on this subject and States EPA's Federal inspection priorities for Regional Offices.

Our primary concern remains finding the most efficient way to ensure that USTs do not leak by meeting standards for protection from spills, overfills, and corrosion. Working in partnership with States, we believe that focusing EPA's resources over the next 6 months on compliance assistance activities, especially for small businesses and local governments, and high priority inspections is the most effective approach to reaching our environmental goals of protecting human health and the environment from substandard USTs. Since the UST program's inception, EPA has been sensitive to the need for balancing our environmental goals with concerns about unduly impacting small businesses and local governments.

While we are not extending the deadline, we believe it necessary to set priorities to reach most effectively the environmental goals of the Federal UST program. If you have any comments on this memorandum, please contact Joan Olmstead (202) 564-4018 in the Office of Enforcement and Compliance Assurance or Sammy Ng (703) 603-7166 in the Office of Underground Storage Tanks.

#### SUPPLEMENTAL INFORMATION REGARDING THE AUGUST 10, 1998 ENFORCEMENT STRATEGY

DECEMBER 9, 1998

This document pertains to the U.S. Environmental Protection Agency's (EPA) strategy for enforcing the regulatory requirements applicable to underground storage tanks (USTs) as of December 1998.

#### *Background*

December 22, 1998 marks 10 years that the U.S. Environmental Protection Agency's regulations for underground storage tanks (USTs) have been in effect. During this time, the UST program has significantly reduced the threat to human health and the environment posed by USTs:

- Over 1.2 million substandard USTs in service in 1988 have been taken out of operation, thus removing them as sources of leaks; and
- Of the 892,000 USTs currently in operation, approximately 500,000 USTs meet tough federal standards that protect human health and the environment.

EPA would like to recognize those parties that have come into compliance by upgrading, replacing or closing their tanks. Their efforts help to reduce the threat of petroleum and hazardous substances being released into the environment.

EPA has also made every effort during the past 10 years to alert UST owners about the 1998 deadline:

- EPA has distributed over 1.4 million compliance assistance documents, many of which were focused on timely compliance with the 1998 requirements;
- EPA, States, and industry have used and continue to use web sites, telephone hotlines, "Mining, and conference presentations to broadcast UST compliance information; and
- Many State UST programs and professional/trade associations have used EPA compliance assistance materials (or adapted them or made their own materials), distributing several hundred thousand documents to their constituents.

Despite these efforts by EPA, States, and industry to effect full compliance, it has become clear that a significant number of USTs will not be in compliance by December 22, 1998. For some, it is a matter of poor planning and the unavailability of equipment and contractor assistance. For others, it may be a lack of financial resources. EPA will undertake a number of efforts to address this situation.

#### *Providing Additional Compliance Assistance and Setting Inspection Priorities*

With the deadline imminent, EPA will undertake several efforts to address the many USTs that will not be in timely compliance.

State Partnership: In developing policies to assure compliance with the 1998 deadline, EPA has worked very closely with the States to assure that we take appro-

priate and fair action against those owners and operators that have failed to comply with the law. In doing so, EPA continues to recognize that the States are the primary enforcers of this law and that many States have enforcement authorities that are more extensive than those of the federal government.

**Compliance Assistance:** Given the large number of facilities that remain in non-compliance, EPA will continue its compliance assistance efforts, especially for small businesses and local governments. EPA will continue to assist UST sectors in their compliance efforts by providing compliance assistance information and helping to identify available sources of financing for UST upgrading, closing, or replacement. Owners and operators of USTs are encouraged to take advantage of available financing to upgrade or replace their USTs as expeditiously as possible. Some States have developed assistance programs for UST owners with many programs targeted to small businesses. These programs include grants, direct loans, and loan guarantee programs. In addition, the Federal Government has several programs that may provide assistance to UST owners (including Small Business Administration, RUMI Development Administration, Economic Development Administration, and Administration for Native Americans). For more information, please see EPA's publication entitled "Financing UST Work: Federal and State Assistance Programs."

**Disclosure and Self-Correction:** For those government agencies, businesses and other owners and operators of facilities that will not be in compliance by the deadline, EPA continues to encourage them to disclose their violations pursuant to EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" (Dec. 22, 1995)(60 FR 66706)(Audit Policy), EPA's "Interim Policy on Compliance Incentives for Small Businesses" (June 3, 1996)(61 FR 27984)(EPA's Small Business Policy), or similar State policies. EPA's Audit Policy encourages regulated entities to voluntarily discover, promptly disclose, expeditiously correct and prevent violations of Federal environmental requirements in order to mitigate gravity penalty amounts by 75 percent and in some cases up to 100 percent. Owners and operators of underground storage tanks should recognize that disclosure of violations to EPA under the Federal Audit Policy does not provide protections from State enforcement action. Indeed, except for disclosures from facilities in New York, Idaho, Hawaii, and Indian Country, EPA will share all disclosures with the appropriate State agency and consult with them before resolving any violations.

Owners and operators of facilities located in New York, Idaho, Hawaii, and Indian Country should send their disclosures to the appropriate Regional EPA office for Audit Policy consideration (see attached list of contacts). Facilities located in States with Audit Policies that meet the Federal criteria articulated in the Feb. 14, 1997 memorandum entitled, "Statement of Principles Effect of State Audit Immunity/Privilege Laws On Enforcement Authority for Federal Programs," should send their disclosure to their appropriate State regulatory agency.

**High Federal Enforcement Priority:** During the first 6 months following the deadline, EPA will focus its federal inspection resources in areas that can produce the greatest environmental and human health benefit. In particular, EPA will focus its resources on:

- Federal facilities;
- Owners and operators of multiple UST facilities;
- Owners and operators of large facilities with multiple USTs; and
- Facilities that are endangering sensitive ecosystems or sources of drinking water by failing to upgrade, replace, or close USTs.

These UST owners are strongly urged to move quickly to come into compliance, as they could be subject to State enforcement actions or citizen suits. In addition, many fuel distributors have told EPA that they may not deliver fuel to USTs that have not been upgraded or replaced.

**Low Federal Enforcement Priority:** During the first 6 months immediately after the deadline, EPA will not focus its Federal inspection resources on the following types of UST facilities:

- Small UST facilities (generally four or fewer tanks) owned and operated by one person not owning or operating other regulated UST facilities; and
- USTs owned or operated by local governments and States (including public service entities such as school districts, fire departments, and police departments).

Small businesses and local governments are strongly urged to move quickly to come into compliance, as they could be subject to State enforcement actions or citizen suits. In addition, as noted above, many fuel distributors have told EPA that they may not deliver fuel to USTs that have not been upgraded or replaced.

EPA has established policies for small businesses ("Interim Policy on Compliance Incentives for Small Businesses") (June 3, 1996)(61 FR 27984) (EPA's Small Business Policy) that allow qualifying parties a waiver of most penalties for prompt disclosure and correction. For example, small businesses that step forward to identify

violations and agree to upgrade, replace or close USTs can expect to pay a minimal civil penalty in the first few months of 1999. That is because the Agency generally recovers only the economic benefit associated with delayed investment in compliance, which in the first few months after the deadline is quite small. The longer compliance is postponed, however, the more economic benefit accumulates, so small businesses and local governments are urged to correct problems within the next 6 months.

This document does not establish or modify any regulatory requirements; it provides guidance on policies and procedures but does not constitute final Agency action on any matter. It also is not intended, and cannot be relied upon, to create any right, benefit, or trust responsibility enforceable by any party in litigation with the United States.

EPA Audit Policy Contacts

Region 1 (CT, ME, MA, NH, RI, VT) Suzanne Parent (617) 565-3351  
 Region 2 (NJ, NY, PR, VI) John Wink (212) 637-3918, (212) 637-4035  
 Region 3 (DE, DC, MD, PA, VA, WV) Samantha Fairchild (215) 814-2627  
 Region 4 (AL, FL, GA, KY, MS, NC, SC, TN) Bill Anderson (404) 562-9655  
 Region 5 (IL, IN, MI, MN, OH, WI) Tinka Hyde (312) 886-9296  
 Region 6 (AR, LA, NM, OK, TX) Barbara Greenfield (214) 665-2210  
 Region 7 (IA, KS, MO, NE) Becky Dolph (913) 551-7281 Region 8 (CO, MT, ND, SD, UT, WY) Michael Risner (303) 312-6890  
 Region 9 (AZ, CA, HI, NV) Leslie Guinan (415) 744-1339  
 Region 10 (AK, ID, OR, WA) Jackson Fox (206) 553-1073  
 Violations in more than one EPA Region—David Nielsen (202) 564-2270

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
 Washington, DC, 20510, December 22, 1998.

The HONORABLE CAROL BROWNER, Administrator  
 Environmental Protection Agency  
 401 St., S.W.  
 Washington, D.C. 20460

DEAR ADMINISTRATOR BROWNER: I am writing to express my deep concerns regarding the Environmental Protection Agency's ("EPA's") revised enforcement strategy with respect to leaking underground storage tanks. I believe that this enforcement strategy is unjustifiable and inconsistent with the Agency's responsibility to protect the environment from the threats associated with leaking underground storage tanks.

As you know, on December 9, 1998, Steve Herman, the Assistant Administrator of the Office of Enforcement and Compliance Assistance, and Tim Fields, the Acting Administrator of the Office of Solid Waste and Emergency Response, issued a memorandum purportedly clarifying the Administration's enforcement strategy with respect to the December 22 deadline for upgrading or replacing leaking underground storage tanks. As I read the memorandum, however, it effectively extends the compliance deadline for at least 6 months for the owners of certain tank facilities. Specifically, it States, among other things, that "EPA will not focus its Federal inspection requirements" on tank facilities "owned or operated by local governments and States." The effect of this non-enforcement policy will be to allow, and even encourage, governmental owners of a large number of noncomplying underground storage tanks to continue to ignore the requirements of the law, even where there might be significant environmental risk, for another 6 months. There is no justification for distinguishing between public and private tanks. Furthermore, your staff has acknowledged that this apparent 6 month grace period could be extended. That is simply unacceptable.

Owners of underground storage tanks have had 10 years to come into compliance with the requirement to upgrade, replace or close leaking tanks. The regulated community has supported this requirement and now legitimately expects the deadline to be strictly enforced. Thousands of private owners of tanks have invested significant resources to comply with the deadline; some have even gone out of business in order to avoid noncompliance. EPA's new enforcement strategy is fundamentally unfair to all of those tank owners who in good faith have complied with the law. There can be no legitimate reason, for example, to exempt the City of New York from fully complying with the deadline, when smaller tank owners in the private sector have been forced to invest in upgrading or replacing their tanks.

I recognize that EPA has limited resources to enforce the underground storage tank program. I also recognize that EPA's enforcement strategy does not bind the States, although it is troubling that at least a few have indicated that they will fol-

low EPA's lead. Thus, while I would support a strategy that targets EPA enforcement resources on those facilities that present the greatest threat to the environment, I cannot support a strategy that arbitrarily distinguishes between publicly and privately owned facilities for enforcement purposes. That is neither good public policy, nor good environmental policy.

It is my hope that you will immediately withdraw this new enforcement strategy and clarify that the Agency will indeed strictly enforce the December 22 deadline. Affirmation of a strong enforcement policy will not prevent the Agency from exercising sound prosecutorial judgment or relying on compliance assistance where appropriate. At the same time, it will send a strong message that no one is exempt from the underground storage tank requirements.

I look forward to your personal attention and response to this matter.

Sincerely,

JOHN H. CHAFEE.

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OFFICE OF SOLID WASTE AND EMERGENCY,  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
*Washington, DC 20460, February 15, 1999.*

*The HONORABLE JOHN H. CHAFEE  
U.S. Senate  
Washington, D.C. 20510-6175*

DEAR SENATOR CHAFEE: Thank you for your letter of December 22, 1998, to Administrator Carol Browner in which you expressed concerns regarding the U.S. Environmental Protection Agency's (EPA's) "revised enforcement strategy" with respect to leaking underground storage tanks.

Let me begin by saying that EPA fully intends to implement the August 1998 national enforcement strategy for underground storage tanks (USTs) which we developed with a great deal of input from the States. We have not extended the December 22, 1998 deadline for upgrading, replacing, or closing substandard USTs for any group of facilities. USTs that do not meet these requirements are in violation of Federal and State regulations. What our December 9, 1998 memorandum stated is how EPA plans to use its limited resources to most effectively enforce the UST deadline in the near term. Thus, for the first 6 months after the deadline EPA will focus its limited enforcement and inspection resources on high priority facilities which we believe potentially pose a greater risk to public health and the environment, while continuing to offer compliance assistance to smaller facilities and State and local government-owned facilities that are committed to upgrading. This assistance will not be provided to facilities that do not intend to bring their tanks into compliance.

Under the Agency's implementation of these enforcement priorities during this period, lower priority facilities are not exempt from requirements, but will be given more flexible compliance terms if they disclose violations to the Agency promptly, by no later than February 12. The longer facilities wait during the 6-month period to disclose violations to EPA, the less favorable the compliance conditions are likely to be. After June 22, 1999, those facilities specified as lower enforcement priority in the December 9 memorandum will be considered to be high enforcement priorities. We believe that encouraging prompt self-disclosure and entering into agreements with expeditious compliance schedules, as well as penalties that recover the economic benefit of noncompliance, will allow EPA to bring more facilities into compliance than would be possible with inspection and enforcement actions alone.

You expressed specific concerns regarding the placement of local and State governments as a low enforcement priority. EPA believes that there are public interest reasons for treating local and State governments differently than similarly sized private businesses for a limited period of time (e.g., in order not to disrupt fuel availability for police, emergency vehicles, hospitals or school buses). However, the December 9 memorandum clearly states that high Federal enforcement priority facilities include "[l]ocations that are endangering sensitive ecosystems or sources of drinking water by failing to upgrade, replace, or close" an UST. Thus, State and local government facilities that pose a significant public health or environmental risk will be a high priority for Federal enforcement. Therefore, we believe our policy allows us to focus on the facilities of greatest health and environmental concern. At this time EPA is working with a number of localities seeking to self-disclose tank violations, including large metropolitan areas and smaller municipalities. The Agency will actively work to put these government entities on aggressive schedules that will ensure prompt compliance. Again, our interest is in ensuring that vital local services are maintained while the environment is protected from substandard USTs.



Since December 22, 1998, we have become aware of certain local governments and small businesses that have contractors onsite upgrading, replacing, or closing their tanks. Some of these have self-disclosed that they are in violation of the UST deadline, and are entering into compliance agreements to bring affected tanks into compliance. While these tanks were not in compliance by December 22, 1998, we believe the best course of action is to allow these entities that self-disclosed a short period of time to bring their tanks into compliance with the UST regulations and pay a small penalty.

Another important clarification is that the policy stated in the December 9 memorandum only affected EPA actions. It did not affect in any way State enforcement policies and priorities. In fact, the vast majority of States are following their previously determined strategies which include doing inspections, taking enforcement actions and, in those States with the authority, "red-tagging" (e.g., stopping fuel deliveries to) noncompliant tanks.

I am encouraged by your support of a strong enforcement program for underground storage tanks. We have worked very hard and well over the past 10 years with all the States to implement the UST program. We will continue to work with the States to ensure full compliance with the regulations as soon as possible.

If you have any questions, please feel free to contact me, or your staff may call George Hull at 202-260-7808.

Yours truly,

TIMOTHY FIELDS, JR., *Acting Assistant Administrator.*

INTERSTATE OIL AND GAS COMPACT COMMISSION,  
February 17, 1999

The HONORABLE JOHN CHAFEE, *Chairman*  
*Senate Environment and Public Works Committee*  
*U.S. Senate*  
*Senate Dirksen Washington, DC 20510*

DEAR SENATOR CHAFEE: I am writing to urge your swift action in approving the nomination of Timothy Fields, Jr. as Assistant Administrator for Solid Waste at the Environmental Protection Agency.

In his capacity as Acting Assistant Administrator for Solid Waste, he has worked with representatives of member States of the Interstate Oil and Gas Compact Commission (IOGCC). The IOGCC is a Congressionally chartered Compact of 30 oil and gas producing States. The IOGCC, from 1991 until earlier this year, worked closely with the EPA on a multi-stakeholder program to upgrade State regulatory programs for oilfield waste. The program was extremely successful and was cited by a White House task force as a model of Federal-State cooperation.

The State review process was stopped because of one stakeholder's refusal to participate and EPA's reluctance to allow alternate participants. Mr. Fields made time to meet with State's representatives and assured the States that EPA was committed to the State review process. At a time when one stakeholder group's representatives were attempting to hold up the process, Mr. Fields assured the States that EPA would not allow the process to be held hostage by one group. If confirmed, the States are confident that Mr. Fields will play an important role in revitalizing and funding the State review process.

EPA relationships with the States are critically important, and Mr. Fields has demonstrated his willingness to work with State government toward positive results. He is a fine public servant, committed to progress, not just bureaucracy.

Sincerely,

CHRISTINE HANSEN, *Executive Director.*

ASSOCIATION OF STATE AND TERRITORIAL SOLID WASTE MANAGEMENT  
OFFICIALS  
Washington, DC 20001, March 2, 1999.

The HONORABLE JOHN H. CHAFEE, *Chairman*  
*Environment and Public Works Committee*  
*U.S. Senate*  
*Dirksen Senate Office Building*  
*Washington, DC 20510*

DEAR SENATORS CHAFEE AND BAUCUS: The purpose of this letter is to convey the support of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) for the nomination of Mr. Timothy Fields, Jr., to be the Assistant

Administrator, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency (USEPA). We have not made such a recommendation in over 10 years, and would not normally do so for a Presidential appointee. However, Mr. Fields is a career employee of USEPA, and an individual with whom we have been associated for over a decade, and we feel obliged to share our confidence in him with the Committee.

ASTSWMO is an association representing the waste program managers of the States and Territories. Our members are State employees engaged in the professional management of the regulatory and cleanup programs associated with hazardous waste, solid waste, State Superfund and remediation, underground storage tanks, and minimization, reduction, and recycling activities within their States and Territories. They are career employees, with backgrounds in engineering, technical management, and other sciences. ASTSWMO is a nonpartisan organization, and we focus primarily on fulfilling our mission; to enhance and promote effective State and Territorial programs and to influence national decisionmaking on waste policies. We have testified before the Committee and its Subcommittees on a number of occasions, and your staff has often consulted with our members as legislative proposals affecting RCRA and CERCLA are developed.

Mr. Fields is well known to our members, having risen through the ranks at USEPA and worked closely with them in program offices over a number of years. We were happy to see him elevated to Deputy Assistant Administrator, and then Acting Assistant ; Administrator of OSWER. We are delighted that he has now been nominated to hold that position on a permanent basis. The reason for our strong support is simple, he is someone we trust to continue to listen to us, consider our input, and to come to an objective, informed decision. We have not always agreed with Mr. Fields in the past and there are certain to be occasions of disagreement in the future, but we know that his judgments are fair and professional. Mr. Fields goes out of his way to seek consultation with regulators and stakeholders outside the Federal family, and we think that is one of the principal reasons he is held in such high esteem. Certainly, he has the professional training and extensive background which give him exceptional expertise in the science and implementation of the full range of waste programs he will manage as Assistant Administrator. But many people have those professional skills, and what singles him out to us is his honesty, candor, and openness. We trust him to do the right thing.

We urge the Committee to favorably report his nomination to the Senate, and to support the Senate's rapid confirmation of this remarkable individual. Thank you for your attention to our views.

Sincerely,

JAMES L. WARNER, *President,*  
*ASTSWMO.*

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PETROLEUM MARKETERS ASSOCIATION OF AMERICA  
*Arlington, VA 22209, March 9, 1999.*

*The HONORABLE JOHN H. CHAFEE*  
*United States Senate*  
*Washington, D.C. 20510-6175*

DEAR SENATOR CHAFEE: We writing on behalf of the Petroleum Marketers Association of America (PMAA) to express support for nomination of Timothy Fields for Assistant Administrator of the Office of Solid Waste and Emergency Response (OSWER) Mr. Fields is a fair-minded and dedicated agency professional.

PMAA is a trade association that represents over 8,000 small business marketers of petroleum products nationwide. Collectively, these marketers sell nearly half the gasoline, over 60 percent of the diesel fuel and approximately 85 percent of the home heating oil consumed in the U.S. annually. Most of the marketers that PMAA represents operate underground storage tanks regulated under the jurisdiction of 40 CFR 280. Our members are undoubtedly the largest faction regulated by this and other solid waste programs. As such we feel strongly about quality tank programs at the Federal level, managed by thoughtful, competent and fair-minded officials.

Over the course of the program the last few years, Mr. Fields has been responsive to industry concerns about implementation and enforcement of the tank requirements and compliance deadline. Although PMAA is still disappointed with the promulgation of the December 9, 1998 enforcement memorandum and are not always in full agreement with decisions made by Mr. Fields and other personnel within the agency, we have been particularly impressed with his willingness to maintain lines of communication with industry representatives. his serious consideration of indus-

try concerns, his high level of accountability, and his ability to draw consensus from a large number of different parties.

We urge you to move forward with the approval of Timothy Fields as Assistant Administrator of OSWER. Thank you for your consideration of this very important manner.

Sincerely yours,

DAN GILLIGAN, *President*.  
KRISTIN MANOS, *Esq.*, *Government Affairs Counsel*.

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ENVIRONMENTAL TECHNOLOGY COUNCIL,  
*Washington, DC 20005, April 26, 1999.*

CHAIRMAN JOHN CHAFEE,  
*Committee on Environment and Public Works,*  
*U.S. Senate,*  
*Washington, DC 20510*

DEAR MR. CHAIRMAN: The Environmental Technology Council, the association representing the hazardous waste treatment and disposal industry, would like to urge that the Senate to give its advice and consent to the nomination of Timothy Fields, Jr. as Assistant Administrator for Solid Waste and Emergency Response of the Environmental Protection Agency.

Our trade association is a creation of the Resource Conservation and Recovery Act, one of the most important programs operated by the Environmental Protection Agency. We believe having an experienced Assistant Administrator is critical for this program to run efficiently and to protect the public health and environment.

Mr. Fields has been acting in this position for more than a year. But his experience with the solid waste law is even far more impressive. He helped draft what became the key to RCRA, Subtitle C, over 25 years ago and has been in the Solid Waste office since its inception. Throughout his 27-year career, he has proven himself more than capable as he moved up the rungs in supervisory and staff positions of the Solid Waste Office.

Complimenting his experience in RCRA is his experience in the Superfund program where he held key positions that accelerated the remediation work of that program. It is difficult to imagine that another candidate could bring the wealth of experience to this position that Mr. Fields brings.

We urge the Senate to promptly act on his confirmation.

Very truly yours,

SCOTT SLESINGER, *Vice President for Governmental Affairs*.

**NOMINATIONS OF RICHARD MESERVE, PAUL  
L. HILL, MAJ. GEN. PHILLIP R. ANDERSON,  
SAMUEL E. ANGEL, AND BRIG. GEN. ROBERT  
GRIFFIN**

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**THURSDAY, SEPTEMBER 22, 1999**

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The committee met, pursuant to notice, at 3:03 p.m. in room 406, Senate Dirksen Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Inhofe, Lautenberg, Murkowski and Crapo.

**OPENING STATEMENT OF HON. JOHN H. CHAFEE,  
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator CHAFEE. Good afternoon, everyone.

The purpose of today's hearing is to consider five nominations. The first nomination is Dr. Paul L. Hill, Jr. to be reappointed as a member and Chairperson of the Chemical Safety and Hazard Investigation Board. He is to be followed by Dr. Richard Meserve, nominated for appointment as a member of the Nuclear Regulatory Commission. The third nomination is that of Major General Phillip R. Anderson, U.S. Army, to be appointed as President and Member of the Mississippi River Commission; followed by two nominations those of Mr. Sam Epstein Angel, and Brigadier General Robert H. Griffin, U.S. Army, to be appointed as members of the Mississippi River Commission. All of the nominees, in my judgment, are well qualified for the positions.

I welcome our five nominees and also welcome Dr. Meserve's wife, Marty. We also, of course, welcome Senator Byrd.

The purpose of the Chemical Safety and Hazard Investigation Board is to investigate chemical accidents and report the facts, circumstances and cause or probable cause of any accident or release resulting in a fatality, serious injury or substantial property damage.

The President has nominated Dr. Paul L. Hill, Jr. for reappointment as Chairperson and member of the Chemical Safety and Hazard Investigation Board. Dr. Hill has been serving as Chair and member of the Board since 1994 and has over 20 years of professional experience in chemical safety, regulation, and public policy development. Prior to his current position, he was President and CEO of the National Institute for Chemical Studies.

He has served the State of West Virginia in several capacities—Science Advisor the West Virginia Water Resources Board and Deputy Administrator of the Department of Natural Resources.

He holds B.S. and M.S. Degrees from Marshall University and a Ph.D. from the University of Louisville.

Now to the Nuclear Regulatory Commission which is an independent regulatory commission responsible for ensuring adequate protection of the environment, public health and safety, common defense and security with respect to the use of nuclear materials for civilian purposes in the U.S.

Dr. Richard Meserve has been nominated by the President to a member of the NRC. If confirmed, I understand the President intends to designate Dr. Meserve as the new Chairman.

Dr. Meserve is currently a part of the DC law firm of Covington & Burling, Chairman of the National Academy of Sciences Committee seeking to upgrade the protection of nuclear weapon materials in Russia. He was formerly a law clerk to Justice Blackmun on the Supreme Court. Dr. Meserve received a B.A. Degree from Tufts, J.D. from Harvard Law School, Ph.D. in Physics from Stanford.

Since the flood of 1928, the primary function of the seven-member Mississippi River Commission has been to implement, construct and operate the Mississippi River and Tributaries Project. This involves the development and execution of flood protection programs comprised of river dredging, levy construction, and water distribution along the Mississippi River.

The President has nominated Major General Phillip R. Anderson to be President and Member of the Commission; currently serving as Commanding General of the U.S. Army Engineer Division, Mississippi Valley, Vicksburg; previously Director of Military Programs, U.S. Army Corps of Engineers and Deputy Commanding General and Assistant Commandant of the United States Army Engineer Center. He served as leader of our engineering forces in Haiti in June and November 1995.

He received his B.S. from the Virginia Military Institute; his M.S. from the University of Chicago of Illinois in Civil Engineering; his M.A. in International Relations from Salve Regina College in Rhode Island.

The second Presidential nomination to the Commission is Mr. Sam Epstein Angel to serve as a member. He was first appointed to the Commission in 1979 and reappointed in 1980. He is from Chicot County, he is an Arkansas planter and ginner. He has served as President of Epstein Land Company, Epstine Gin Company in Lake Village, Arkansas since 1980, as well as the Chicot Warehouse Inc. in Eudora, Arkansas.

Since 1970, he has been Commissioner of the Chicot County Watershed District. He is a former commissioner of the Chicot County Rural Development Authority.

Brigadier General Robert H. Griffin is the third nominee to the Commission. He has served as Commanding General for the United States Army Corps of Engineers, Northwestern Division, since 1996. Prior to that, he was Commander of the United States Army Corps of Engineers, Mobile District, Mobile, Alabama. He commanded the 864th Engineer Battalion which included service in Desert Storm.

He receives his B.S. in Mechanical Engineering and M.S. in Civil Engineering from Auburn University and an M.B.A. from Long Island University, CW Post.

Senator did you have a statement?

**OPENING STATEMENT OF HON. JAMES M. INHOFE,  
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. As Chairman of the Subcommittee on Clean Air, Property Rights, Wetlands and Nuclear Safety, we have some jurisdiction over all of these appointments. So I am very interested in these and I have heard a lot of good things.

My major concern is I have had the honor of talking to Dr. Meserve in my office and we have many mutual friends out there. He comes very highly recommended. We have a lot of problems there. We did not offer any oversight for the first 2, maybe 2 1/2 years that I chaired this committee but we got into it. Just in the last year we have had two oversight hearings and we were actually planning to have one today and did not because we thought he would need to be on the job for a while before we get into some of the issues that we are going to be discussing.

I am concerned about the relicensing process and I am pleased that the NRC is currently on track to process the first two applications within 2 years. However, we are going to have to find some way, as you and I talked in my office, of streamlining this process in order to accomplish the relicensing commitments we field in the next short period of time.

We are interested in the 5-year strategy, are anxious to get that. We got off to a slower start and I hope you will make that one of your top priorities.

One of the things I do want to spend some time on and we can do this during question and answer is something that we addressed in our committee. We do have a commitment, it is my understanding, that there is going to be a new approach to the fee system so that the licensees will only be participating in those things from which they either inure some type of benefit or are subject to jurisdiction.

There is approximately \$40 to \$50 million of functions that are performed by the NRC that have nothing to do with industry. I want to be sure that we have a clear understanding, as you and I had when we visited in my office, that anything that does not affect the licensee should have to go through the normal appropriations process.

We will have a chance to address this during question and answer time. I am looking forward to these confirmations.

Senator CHAFEE. Thank you very much.

Senator Lautenberg, do you have anything you want to say?

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG,  
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Yes, Mr. Chairman. Thank you.

I welcome our nominees today. I am happy to see Senator Byrd here. I am always anxious to hear what he says because what he says is always supported by knowledge, experience and memory

which I am trying to emulate. That is going to be pretty hard unless I am about a 486K or something like that.

Senator CHAFEE. If you stay around this place for 46 years, you will get it.

Senator LAUTENBERG. I remember all the kings of England, the periods they served, how they died, starting with 1066 or the establishment of the Roman Senate, and a few other things, Mr. Chairman. I am impressed with the candidates we have for the Nuclear Regulatory Commission as well as the Chemical Safety and Hazard Investigation Board. Each of these nominees brings terrific credentials and I am pleased we are going to be hearing from them.

The Chemical Safety and Hazard Investigation Board is of particular interest to me because the chemical industry in New Jersey is a significant industry, one in which we take pride and one that we treasure. We also want to be safe. The Board was created to help assure those operations do meet the standards we set for safe operations. The Board was authorized by the Clean Air Act in 1990 but not until fiscal year 1998 were funds appropriated. Two days after the Board was able to open its doors in January 1998, there was a serious explosion at a factory in Nevada that killed four people and the Board was off to its first investigation.

The recommendations that resulted from that investigation have been adopted by the State of Nevada in the form of State law. The report on that investigation and two others completed have been used by various organizations for training purposes and carefully studied by industry, government, labor and community groups alike.

I know the reports on the other investigations that are currently underway will be solid and make a contribution to the safer manufacture and use, storage, et cetera of chemicals. That is the exact vision we had for the Board when we created it.

The first concern I do have, Mr. Chairman, is that we are not allowing the Board to do its job, to grow to the size it needs to be to adequately carry out its mission. This year, in fact, the Board had to stop beginning new investigations mid-year. We should not permit that to happen. The underfunding of the Board may be an unavoidable consequence of starting an agency from scratch but we cannot do that much longer. Too much is riding on the work of this agency.

I look forward, Mr. Chairman, to hearing the testimony of these witnesses. I thank you for holding this hearing.

Senator CHAFEE. Thank you very much, Senator.

If Dr. Hill and Dr. Meserve would come forward. Senator Byrd, it is my understanding that you would like to introduce Dr. Hill. We look forward to your comments.

**STATEMENT OF HON. ROBERT C. BYRD,  
U.S. SENATOR FROM THE STATE OF WEST VIRGINIA**

Senator BYRD. Thank you, Mr. Chairman, Senator Inhofe and Senator Lautenberg.

You are very busy men and I consider a privilege to be here this afternoon to introduce Dr. Hill. I knew Theodore Green and served with him, I served with John Pastori, I served with Bob Kerr, A.S.

Mike Monroney and you are both very worthy Senators to follow in their footsteps.

You have made a mistake, Mr. Chairman. You are retiring too early. I would say the same thing about Senator Lautenberg. I have been talking to him trying to get him to change his mind. Nevertheless, that will be a conversation for another day.

I appreciate the opportunity to come here and I thank you and the members of your committee for your courtesies.

I welcome this opportunity to present to you this afternoon my constituent, the Honorable Paul L. Hill. I served with Lester Hill from Alabama, a great Senator. Benjamin Hill was a great Senator. I did not serve with him; that was before my time. Benjamin Hill was a great Senator, a great orator and I am confident that Dr. Hill will be just as illustrious and just as capable in his field as the two Senators Hill that I mentioned were in theirs.

Dr. Hill is the current Chairman of the U.S. Chemical Safety and Hazard Investigation Board and has recently been renominated, as you have pointed out, by the President with my support, to serve a second term as Chairman.

Dr. Hill holds a PhD from the University of Louisville and B.A. and M.A. of Science Degrees from Marshall University in West Virginia. I attended Marshall when it was a college, not a university. I attended one semester. I took eight courses, 22 hours and made eight As at Marshall University. I was a little late in receiving my baccalaureate, I received it 5 years ago at the age of 76. My baccalaureate was in political science. I received my law degree in 1963 at the age of 45 but I am proud always to say that I am an alumnus of Marshall University, age 76.

We learn a lot more when we go to school late as I had to do. So Dr. Hill comes as someone who attended Marshall University.

Dr. Hill, you are not the only man around here who was a great physics major. I have two grandsons that are physics majors from the University of Virginia which has a very strong Physics Department. My third grandson, who is the second physics major in my family, married last Saturday and is off to Hawaii.

Dr. Hill has dedicated 20 years of his career to chemical safety, regulation and public policy. This includes 7 years as President and CEO of the National Institute of Chemical Studies located in Kanawha Valley of West Virginia which is also home to a thriving chemical industry on which the State and the Nation depend.

Jacob worked 7 years for Rachel and when Jacob went to claim Rachel after working for Laben for 7 years, the father-in-law did not give him Rachel, the father-in-law gave him Leah, Rachel's sister. The Scriptures say that she was weak-eyed. So you worked there 7 years but these gentlemen are not going to make you work 7 more as Laben did. He required Jacob to work 7 more years before he could finally get Rachel.

It is in this capacity that I am most familiar with Dr. Hill's abilities. The chemical industry is a critical component of the West Virginia economy but we all know that many chemicals are sensitive and volatile, and that chemical accidents which pose significant threats to life and the environment can and do occur. When they do occur, public outcry for immediate remedy is often at odds with the viability of the business involved.



Dr. Hill established his credibility within the field of chemical safety by working with government, industry and the public to better manage chemical risks while still sustaining environmentally responsible economic growth in the industry. Thoughtful, studious and capable, Dr. Hill has demonstrated calm and effective leadership, not only in more mundane, day-to-day circumstances, but also in the highly charged emotional atmosphere that accomplishes the real life nightmare of a chemical accident.

In 1993, when the President began looking for candidates for the U.S. Chemical Safety and Hazard Investigation Board. I had no hesitation in bringing Dr. Hill's interest in serving on the Board to the Administration's attention. I was very pleased that the President and this committee also recognized Dr. Hill's qualifications to lead this new, independent agency. However, for the first 3 years of his 5-year term as Chairman, delays in providing funds to initiate the Board's activities kept that body from serving its appointed role.

I hope that my colleagues here will look favorably on Dr. Hill's nomination to a second term as Chairman of the U.S. Chemical Safety and Hazard Investigation Board. I believe they will. I know Senator Chafee is a very tough Chairman but he is fair. I know Mr. Inhofe is also a man of great courage and is a hard worker. I served with him on the Armed Services Committee and I have great respect for him as well. Senator Lautenberg is my colleague on the Appropriations Committee and I have had the great pleasure and privilege of serving with him on that committee for many years.

In his year-and-a-half tenure, Dr. Hill has led a board which, while still in its infancy, has as its mission to ensure the safety of workers and the public by eliminating chemical accidents. To date, the Board has investigated 22 chemical accidents and has completed reports on three. The Board's initial research indicates that on average, 253 Americans die each year as a result of chemical accidents. Dr. Hill knows that and he knows this is unacceptable and that the success of his tenure will be measured by the Board's effectiveness in reducing chemical accidents by finding out their cause and by helping to find solutions to prevent similar accidents from occurring in the future.

In West Virginia and other States across the country with a high concentration of chemical plants, the existence of this board provides greater peace of mind both to the people who work in the plant and to those families living near the highways and railways that transport the chemicals. Dr. Hill has proven that through diligence, cooperation and forethought, dangerous situations can be avoided and lives can be protected.

I am proud to introduce a man of Dr. Hill's caliber because in doing so, I also put my own name on the line. I hope the committee will express confidence in his abilities to guide the organization and its next 5 years by approving his renomination.

Thank you, Mr. Chairman. I thank my colleagues on the committee who serve with you for this opportunity.

Senator CHAFEE. Thank you very much, Senator Byrd. Obviously your support for Dr. Hill is very beneficial to him, not that he was in trouble but having your support is a splendid thing.

I know you are extremely busy so if you would like to retire now, that would be acceptable. I don't think anyone has any questions of you.

Senator BYRD. Thank you, Mr. Chairman.

I wish you good luck, Dr. Hill.

Mr. HILL. Thank you.

Senator BYRD. I also wish the other gentlemen who are nominees equally good luck.

Senator CHAFEE. Thank you very much, Senator Byrd.

You each have a statement and all of the statements will be included in the record. Some of the statements are a little lengthy, so if you can stay in the 5-minute area, that would be helpful. It would help your cause.

I don't think there is anyone here to introduce Dr. Meserve is my understanding.

Mr. MESERVE. That is correct.

Senator CHAFEE. Go ahead, Dr. Hill. Give us your statement.

**STATEMENT OF PAUL L. HILL, JR., NOMINATED BY THE PRESIDENT TO BE A MEMBER AND CHAIRPERSON OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

Mr. HILL. Thank you, Mr. Chairman and honorable members of this committee.

It is certainly an honor for me to appear before you today to answer any questions you might have and certainly an honor to have been introduced by Senator Byrd. As he said, he first recommended me to the Administration some time ago and indeed, I am honored to appear before you today to answer any questions you have.

Humble as I am that the President of the United States has placed his confidence in me by submitting my name again for nomination and confirmation by you, I want to assure the Committee and the Congress as a whole, that I will continue to dedicate myself as a partner with the Congress in fulfilling the Board's mandate.

As Senator Byrd pointed out, I have been allowed to serve as Chairman of the Board only for a short period of time. During the startup phase, however, much has been accomplished of which I am very proud. There is much, much more work to do, however, to live up to the mandates as the Congress pointed out back in 1990.

Although this has not been an easy task by any means and certainly a lot of challenges lie ahead, I look forward to the opportunity to meet these challenges if confirmed for a second term. Further, if the Committee would entertain engaging its oversight function, I would readily participate in the opportunity to explore various issues and challenges relative to improving chemical safety. In so doing, my approach to implementation of the Congress' intent could be aired with those directly involved with the Board's statutory authorities and indeed, its very existence.

I think this goes along with Senator Lautenberg's previous comments that there are certain activities that are defined by the statute which obviously in our American society are interpreted by different parties in different ways. Our stakeholders obviously raise those issues and that is the reason why I think it is good to air these issues before the Congress so that we can be clear that we

are together and on the right track to achieving what the Congress laid out.

When I appeared before you last, there was no Board. There existed a statute and there were three nominees with the concept of a new agency and a new task that was considered necessary and needed. Today, we have a staff. We have four board members and a staff of 22. If there has ever been a from the ground-up organization, the Chemical Safety Board is it.

After nearly 21 months of existence, the Board could still be called a virtual agency. We exist in temporary space, we rent our furniture, we borrow technical expertise from other Federal agencies and we outsource the majority of our administrative functions. Still, in spite of these hurdles, in 21 months we have done what no one else can remember doing for a long period of time and that is create a Federal agency from scratch.

We took on a businesslike approach in what we felt the philosophy of the Congress would be for a 21st century agency, that is to be lean, to be accountable and to be service-oriented. We have allowed that philosophy to go throughout and pervade every action that we have taken on at the agency. We have many accomplishments. As I said, I am very proud and some of the figures you have heard from others present today, including Senator Lautenberg's remarks about the Nevada experience where our recommendations led to a direct impact at the State level to incorporate the new findings into requirements that we think will save lives. Indeed, I am very proud of that action. We are also investigating eight additional major incidents to date and several other minor incidents which have resulted in 33 fatalities and nearly 50 injuries in this country.

Various other accomplishments include our work on Y2K. Working with Senators Bennett and Dodd, at their request, we compiled information relative to the impact of the Y2K bug, as it is called, on chemical safety at large industrial facilities. We have tried very hard to address that issue within our limited capability in the startup year.

There is clearly much more to do, Senators, but I have placed a lot of emphasis on results-oriented activities with my staff. I clearly appear before you today because I want to continue in this capacity and we are moving forward toward prevention as our number one goal. We cannot change those events, chemical accidents, but we can learn from them to increase our preventative capability.

I have mentioned some other things as well, such as an oversight hearing, perhaps some additional modifications of our legislation that I think would be helpful in the interest of cost effectiveness now that we've had 21 months of experience.

I am honored to be here today and in closing, let me say that I certainly appreciate the opportunity to speak to you today, answer any questions you have and look forward to the opportunity of working with the committee in the future.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you very much, Dr. Hill.

There are two questions that I will be asking each of the nominees.

Are you willing at the request of any duly constituted committee of Congress to appear in front of it as a witness?

Mr. HILL. Yes, sir.

Senator CHAFEE. Do you know any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed?

Mr. HILL. No, I do not, Mr. Chairman.

Senator CHAFEE. It is curious to me how you select which accidents you are going to investigate. You can't do them all.

Mr. HILL. That's correct.

Senator CHAFEE. I understand it sounds impossible, but am I correct in saying there are some 60,000 accidental releases annually in the U.S.?

Mr. HILL. That is the number of reports recorded through other Federal agencies, through OSHA, the National Response Center, etc. That is an average number annually where there is a report of a chemical spill of some type. Some of those are small events; others are quite large.

Senator CHAFEE. What do you do, you get these coming in obviously and some of them are very minor, as you suggest, but suppose you have three come in a month in which there was at least one fatality, what do you do? How many can you handle?

Mr. HILL. It is a very difficult situation right now, Mr. Chairman, given that we're still trying to build the infrastructure to support the agency in its function, but I feel that as we are now approaching that point of having the basic infrastructure in place, I need to add more investigators. Fully a third of my staff now is dedicated to technical work on the investigations. I have requested, through my appropriations process, increasing that number significantly over a period of years.

Back to your original question, how we select those, we began by looking at the statutory language itself and clearly fatalities are the first thing that is mentioned by the Congress in the statutory language. We began by saying if there is a fatality, that is a higher importance than other types of events.

Clearly, we are not able to address even the ones with multiple fatalities. We can look at some of those, but we certainly can't look at them all. We would like to be able to do so, but resources prevent us from doing so right now.

Other things we look at are the level of significance and the opportunity to learn from these events. If we see safety system failures that are applicable across a broader industry, then we feel we can provide value added by looking at those types of events.

We are formalizing a process right now where a month from now we are scheduling a stakeholder group meeting to put together a more formalized selection criteria process but right now, we've been following the statute.

Senator CHAFEE. Do you find the chemical companies receptive to your recommendations? Say Company A has a fatality, so you investigate it and come to a conclusion in some fashion of why it was caused. Then, I presume you have some system for circulating this among the chemical industry, so Company B finds out. I don't know how you circulate your discovery investigations and your re-

sults but presumably you come up with a conclusion that such and such a procedure was a dangerous one and should be avoided.

Mr. HILL. Yes, sir.

Senator CHAFEE. In a way, you're sort of like OSHA, I suppose. Is chemical Company B receptive to your suggestions?

Mr. HILL. Yes, sir. They have been very receptive. In fact, one of the things the industry has pointed out to us is that the ability to collect this information under our statutory authorities protected from some of the liabilities that companies face in sharing their own information is a big benefit to them. That is, in cases where say we investigate an accident at a refinery, then the findings can be shared with all the other refineries in the country and the entire segment of industry such that they don't make the same mistakes. We publish that information on our web site, we distribute the reports very broadly and we contact the trade associations of those organizations to make sure that information gets out. We share it with the States and any other potential business that might have a similar operation where we can provide that learning.

Senator CHAFEE. Thank you.

Senator CHAFEE. Senator Lautenberg?

Senator LAUTENBERG. Thank you, Mr. Chairman.

Dr. Hill, we are pleased to have you with us today. The GAO I understand has done a review of the committee's functioning. What did they find and what has been the response to those findings?

Mr. HILL. After we were in operation for the first 9 months, Senator, GAO did an audit of our startup functions. We had actually talked to GAO within the first few weeks of our operation. In the effort, as I indicated earlier, to start a new agency, we were looking for all the advice and input we could find about how to properly do that and meet all the Federal requirements and ensure that we were doing so.

One of the primary findings of GAO dealt with our contracting services. The indicated in those first 9 months, we had not issued a written, key emphasis on the word written, document detailing our contracting procedures. That's not to say that we had any contract problems or it's not to say that we were not following Federal contract procedures. Indeed, we were following the ones at General Services Administration which was handling that. That was one of the major findings which we have addressed.

Another finding dealt with their suggestion that we review our staffing and how those staff positions were allocated. We have done that. I communicated directly with GAO.

Senator LAUTENBERG. How you were staffing with the budget that you had or how you might staff if you had the full budget you needed?

Mr. HILL. It dealt with the staffing that we had, Senator. The fact that we had staffing allocated to various functions of the agency in order to support it and there were some comparisons between our agency and NTSB, which is our sister agency.

We felt we had addressed that and indicated that indeed we plan to grow the agency all in the technical area to do more of that work in the future now that we have established the basic infrastructure.

Senator LAUTENBERG. Do you have any idea of the population of chemical—I don't want to say companies as much as sites—around the country where material that could be hazardous exists? Do you have any idea how many of those there are?

Mr. HILL. We do not have a precise number, Senator, at this time. I can tell you that through some of the work that EPA did on the risk management planning process, which is also contained in the Act, very near our language, and which we will be reviewing as directed by the Congress, that EPA had some 66,000 facilities that are covered by that particular rule. Certainly I don't think that's a comprehensive number because the Congress directed us to look at all chemical compounds and even make recommendations about the chemicals that go on the list. I would say it is significantly larger than that.

Senator LAUTENBERG. How many employees might you guess would be included in that world?

Mr. HILL. You mean employees of the private firms?

Senator LAUTENBERG. yes.

Mr. HILL. Certainly hundreds of thousands.

Senator LAUTENBERG. I was struck by the fact that you said there 60,000 on average incidents a year, and correct me my recollection is wrong?

Mr. HILL. Those are incidents that are reported to Federal agencies today. Yes, that's the average number.

Senator LAUTENBERG. So based on the estimate of 66,000 facilities, and you say it's larger, could there be an incident almost in every facility—I mean 60,000 incidents over a population of 66,000 facilities is a terrible record.

Mr. HILL. It is a sizable number, Senator, no question about it. Again, there has to be a significance associated with those but again, we're not looking at just facilities that manufacture chemicals, although they are a big player, but we look at, as the Act says, warehouses, storage facilities, disposal facilities, transportation, there's a sizable number in that data base that are attributed to transportation.

I have to tell you that the data has some problems with it in that we have not had a comprehensive assessment at the Federal level of just some of the figures you're asking for.

Senator LAUTENBERG. Would you be able to do that if we raised the funding to the level requested, I think \$6.5 million and the request is for \$12 million?

Mr. HILL. That's correct. Yes, sir, one of the things we want to do is give the Congress a better read on exactly what this problem looks like, how big, how small, what areas we should invest our resources in and today, as I told my Appropriations Committee in the House in February, I can't tell you if warehouses are more of a problem than refineries or if chemical manufacturers are more of a problem than warehouses. The information has not been kept in such a way that allows us to answer those questions. We are proceeding with that very issue by trying to consolidate this information and collect new sources that we can report to the Congress.

Senator LAUTENBERG. Do you have a reliable figure for the number of fatalities or injuries that occur each year?

Mr. HILL. Yes, sir. On the average, as Senator Byrd said, there are 256 I believe is the average number annually that we have associated with chemical spills.

Senator LAUTENBERG. Fatalities?

Mr. HILL. Fatalities, and many, many hundreds of injuries on top of that, thousands actually.

Senator LAUTENBERG. To wrap up, Dr. Hill, the State of Nevada adopted the Board's recommendations?

Mr. HILL. Yes.

Senator LAUTENBERG. Can you briefly tell us what those recommendations or statutes are that resulted from those recommendations?

Mr. HILL. Yes. When we completed our investigation of Sierra Chemical Company in Nevada last year, we made recommendations to the State—Nevada is a State OSHA plan which has authority for investigations and inspections of those facilities—that the individuals who conduct those inspections be trained in understanding the chemical safety issues particular to the explosive chemicals industry. They did not have anyone on staff who knew that industry well enough to really know what they were looking at when they went in.

We recommended they improve training for their own workers as well as increase the frequency of inspections. Some of those facilities, and Nevada has several, are only inspected on a very infrequent basis.

Another recommendation was that the safety information provided to the employees in the plant be provided in their native language. As it turns out, the vast majority of the individuals who worked at that plant were Hispanic who neither spoke nor read English. However, all the safety information to warn them of hazards they were working around on a daily basis was all in English. Therefore, those individuals did not comprehend their risk situation. We recommended that they be trained in their native language and moved through that process.

The State of Nevada legislature, as well as the Governor's office, took up those recommendations. The Governor actually acted before the legislature and did an executive order on some of these items, then the State legislature passed laws that were signed this spring that incorporated those concepts.

Senator LAUTENBERG. Thank you, Mr. Chairman.

Senator CHAFEE. Thank you.

Senator INHOFE. I have no questions of Dr. Hill.

Senator CHAFEE. Senator Crapo?

Senator CRAPO. I have no questions for Dr. Hill.

Senator CHAFEE. Dr. Hill, thank you very much.

There is a very nice letter in here about your work in Contra Costa County, California. This is a recently dated letter that they had a very serious situation and you were helpful?

Mr. HILL. Yes, sir, I was just there last week and held a public hearing.

Senator CHAFEE. I must say it was a serious situation. She says in her letter, "When another even more fatal accident occurred"—if it was more fatal than the other one, that was very fatal.

Mr. HILL. I think they had one fatality and then the next incident they had four.

Senator CHAFEE. Fine. Thank you very much.

You can be excused.

Dr. Meserve, is your wife here? Did you want to introduce?

Mr. MESERVE. Yes, my wife is here.

Senator CHAFEE. We'd be happy if you want to introduce her.

Mr. MESERVE. I'm joined today by my wife, Marty Meserve, if she would stand.

Senator CHAFEE. We welcome you here.

I suspect you're making some sort of sacrifice here. When someone goes from Covington & Burling to a Federal job, some sacrifice is involved, I suspect. Please go ahead.

**STATEMENT OF RICHARD MESERVE, NOMINATED BY THE  
PRESIDENT TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION**

Mr. MESERVE. Mr. Chairman and members of the committee, I appreciate the opportunity to appear today at this hearing on my nomination. As Senator Chafee has indicated, the President has stated his intention if I am confirmed to designate me as Chairman of the Nuclear Regulatory Commission.

I have provided a written statement and I will offer now an abbreviated version. Let me just say a few words about myself and then offer my thoughts as I contemplate the possibility of joining the NRC.

As Senator Chafee has indicated, I am a partner in the law firm of Covington & Burling, which I joined as an associate in 1981. I turned to the practice of law after completing a Ph.D. in Applied Physics and I have used my scientific training in a legal work. This has included work on nuclear-related issues.

As an attorney who has worked with the NRC, I have a familiarity both with its procedures and with the substance of its work. I have also served on a number of committees of the National Academy of Sciences and the National Academy of Engineering that have focused on nuclear issues.

I believe that my educational background and my professional experience will reinforce each other in ways that should be helpful in the conduct of the Commission's work.

Rather than take further time here today to discuss my professional career in greater detail, I have submitted my resume as an attachment to the statement.

Let me turn now to my views as I contemplate the possibility of joining the NRC. As I am sure this committee is fully aware, we are in the midst of a significant restructuring of the utility industry. In a growing number of States, the competitive market determines the price for electricity and thus profitability for all forms of generation is dependent on achieving economically efficient operations. This has important implications for the NRC's work.

First, and most important, it reinforces the need for the NRC to fulfill its obligation to demand safe operations by licensees. The NRC must assure that the pressures to reduce costs do not become incentives to cut corners on safety. The NRC must ensure that its



licensees meet the agency's safety and environmental requirements.

Second, in a time of sensitivity to costs, the NRC has a particular obligation to regulate efficiently, to regulate in a fashion that imposes the minimum degree of burden consistent with getting the job done. This implies a judicious approach, both to new regulatory initiatives, making sure the benefits outweigh the costs, and a willingness to cast a cold appraising eye on existing policies and programs. Moreover, managerial oversight is necessary to make sure that the policy decisions made in the agency's conference rooms are translated into practice at the operational level.

Third, it is incumbent on the NRC to reach decisions in appropriate ways. Decisions must be fair and be perceived to be fair. They must be appropriate for the particular task at hand and they must be efficient and timely. For example, if a process is so needlessly time-consuming and inefficient, the delay itself determines the outcome and the goal of fairness is not being met and the Commission has failed in its obligations.

At the same time, however, there should be no slighting of the significant role that Congress gave to the public in NRC processes. Thus, as the NRC carries out its regulatory activities, it must be conscious of the need to include the affected public in ways that are meaningful and that contribute to efficient decisionmaking.

Finally, at a time when the Commission has a variety of important matters to which it must attend, I am mindful of the fact that Congress created the NRC as a multimember commission. Each member should gain the benefit of the other members' expertise and ideas, thereby allowing more informed and thoughtful decisions than any one commissioner could provide alone.

I understand this places a special obligation on the Chairman. In addition to taking a leadership role, the Chairman has a special responsibility to listen to his or her colleagues and to work for consensus.

I believe the NRC has made progress in all of these areas in recent times and I believe there are grounds for optimism about the future. I see an agency well aware of its duties to protect the public health and safety under law. I see an agency that has worked to improve its communication with members of the public, the regulated industry and with the Congress. I see an agency that is taking advantage of improvements in analytical tools and information to focus on those aspects of industry operations that are most significant. In short, I see an agency on the right track.

If confirmed, I look forward to working with my colleagues on the Commission to build on the achievements of the recent past. I would be pleased to answer your questions.

Senator CHAFEE. Thank you very much.

Senator Inhofe has some scheduling challenges, so Senator, if you'd like to proceed now?

Senator INHOFE. Thank you very much.

First of all, I'd like to congratulate the NRC in processing the first two relicensing applications so quickly even though you had nothing to do with it. We are looking for great things from you too. I think the hard part is going to be, as you and I discussed, that you will have at least ten of these to be working at one time.

I really believe that it's going to be necessary to make changes and streamline the operation in order to do that. Do you agree with this and do you have any ideas as to where to start with streamlining the operation or the process?

Mr. MESERVE. Senator Inhofe, the relicensing process which is a very important activity that the NRC has underway. As you indicated, there are two obligations that are in the pipeline now. I think there are going to be several others, as you indicated, that will be emerging over the years. Of course the licensees themselves will determine whether and when to start the relicensing process.

The NRC has to do these efficiently and has to do them in a timely fashion, as I indicated in my statement. Not having been on the inside of that process, I don't come to the job with the knowledge of how to assure that happens, but I understand the importance of making sure such applications go forward.

Senator INHOFE. You and I also talked about the 5-year plan and the necessity to come up with a real comprehensive 5-year plan which wasn't done. I think you are probably aware that the GAO looked at the first attempt and it was not adequate.

First of all, when do you think you will have a 5-year plan? Have you talked among your colleagues?

Mr. MESERVE. I am aware of the issue in general but I am not aware of the schedule for the plan.

Senator INHOFE. You haven't talked about how long it would take?

Mr. MESERVE. My understanding is that the Government Performance and Results Act requires a strategic plan and I believe that is underway. It's my understanding, and I may be mistaken about this, that there is some suggestion in draft language in the House Appropriations Bill about a different kind of plan. I've not seen the specifics of that language and exactly how that relates to the strategic plan.

Senator INHOFE. It's my understanding that both plans are trying to get to the same thing. I guess the request I'd make is that when you do determine when that time would be, say anytime in the next few weeks, I'd like to have you share with me what your timing is going to be and also a commitment that we will be advised during the development of this plan with documents so that we will have an idea of where we are going.

One of the things that I know we don't like on this committee and other committees too is to wait and not have any idea of what is in the making. We like to be kind of a part of the development in being advised as you move along. Does that sound reasonable?

Mr. MESERVE. Senator Inhofe, I appreciate that the Chairman and Commissioners have an obligation to keep the Congress informed of their work and I intend to fulfill that obligation.

Senator INHOFE. The other area we talked about when we had a committee meeting before my subcommittee before we started some oversight was that we had something I wanted to see terminated and that is the entire funding for the operation of the NRC coming from the licensees. While there are functions that are performed that do not either inure to the benefit or the regulation of those licensees and I feel very strongly that amount, which I think is in the neighborhood of \$40 to \$50 million, as soon as that is de-

terminated, should have to go through the normal process and not be a charge to the licensees.

That's a very strong feeling that I have and we have talked about this. Do you agree conceptually that we should do that?

Mr. MESERVE. I agree, conceptually. Obviously I think there is a fairness issue here. The licensees ought not to be charged fees for things that do not benefit them directly.

I've not been in the middle of this appropriations process, as you can appreciate. There is also a public interest in making sure there is sufficient funding for the NRC to fulfill the obligations with which it is charged. I would hope there is a way that the NRC, working with the Congress, can find a way to make sure there is no conflict between those two principles. I don't think there should be, but there may be, and I hope to be able to work with you and your colleagues in the Congress to make sure we can resolve any such conflict.

Senator INHOFE. You indicate you're not familiar with the appropriations process. There is a process and that process is to present your case through that process to the Appropriations Committee or the appropriate subcommittee, justify your case in making your appeal for the appropriations.

What I don't want to happen is to assume that we can go along and if you're not successful and don't meet the criteria, and you're not successful in getting an appropriation, assuming you can go right back to business as usual and start assessing the licensees for those functions to which they have no involvement or interest or benefit. That's my concern. Do you agree with that?

Mr. MESERVE. I agree it is certainly a concern. My impression is—and again I will defer to your greater knowledge on this—that there may be a difference in view in the Appropriations Committee with regard to whether funding for those activities which benefit the public as to whether that should come from the general revenue. I'm not in a position to say how that should be resolved. That's something I would hope we could get some help from you and others in the Congress in trying to make sure that it is resolved.

There are some NRC activities that do not benefit the licensees in which they have a fair and equitable argument that they shouldn't be paying for. That's not to say that those are not appropriate for the NRC to do. There are some things, like the supervision of the Agreement States, which is an NRC obligation under the statute, that does require making sure the NRC has the capacity to do the job. Similarly, there are benefits to the United States I believe from various of the international activities of the NRC.

I hope that we don't find ourselves in a position where being able to fulfill all of the obligations properly and efficiently puts such a crunch in the agency that it can't do its job well.

Senator INHOFE. But you see, during the normal appropriations process, those things are all considered. One of the major considerations is that it's something mandated by statute. If it is, obviously the Appropriations Committee would respond. In fact, everything you mentioned is something that is a part of the process of going through that appropriations process.

I want to get this started and this is one of the first reforms when we started our oversight here a couple of years ago that I wanted to be sure that we were able to achieve. All I want from you is the commitment that you will try to achieve this and you will work with us.

What I don't want to happen is to have you folks go through the appropriations process and they determine that this something that should not and does not deserve funding, then assume you can go right back to the licensees and say, they're here anyway. That's my concern.

Mr. MESERVE. I understand your concern. I look forward to the opportunity to work with you on it.

Senator INHOFE. Thank you very much.

Senator CHAFEE. Senator CRAPO?

Senator CRAPO. Dr. Meserve, the questions I have relate to the handling of the procedural approach to Yucca Mountain as we set the various standards for regulation and hope to ultimately open and operate Yucca Mountain.

It's my understanding that the EPA's recently proposed water quality standards for Yucca Mountain's project are extremely stringent and beyond that which are reasonable or even what was expected and if they become applicable and law, they could pose a serious problem with regard to the implementation of operations at Yucca Mountain.

I'm not going to ask you to comment on that conclusion, but I think there is a very strong question which is one which arose from the same type of issues with the opening and operation of the WIPP facility in New Mexico about whether the EPA is the proper authority to be establishing the regulatory standards for these types of facilities or whether those standards are more properly the jurisdiction and expertise of the NRC. Do you have an opinion on that?

Mr. MESERVE. Certainly they are within the expertise of the NRC. The NRC has a longstanding involvement with setting radiation related standards and safety standards and great experience in doing so with very competent and capable staff.

There have been disputes over the years, as I understand it, between EPA and NRC on standard-setting matters. The state of play is one that Congress created with regard to the Yucca Mountain. EPA is designated the responsibility, statutory responsibility, to establish standards and then NRC is to fulfill the implementation of those standards.

It seems to me there is some redundancy but it's one that Congress created. I would hope if I am confirmed to serve as the Chairman that we would find a way to at least resolve some of the conflicts that have existed over the years with EPA.

Senator CRAPO. Do I understand you to say that if Congress were to adjust the law or to change the jurisdictional responsibilities, that the NRC does have the expertise and ability to set, establish and properly manage these standards?

Mr. MESERVE. I have not obviously served in the position but as someone on the outside looking at the NRC and having worked with the NRC on various issues, it's been my perspective that they are very capable and competent in the radiation standard area.

Senator CRAPO. With regard to the issue of working to address the redundancy and difficulty to make sure we can move forward with reasonable standards that are workable for the intended purpose of the facility, do you intend, if confirmed, to take a forceful role in assuring whether it's EPA standards or NRC standards or both that the standards that are adopted are reasonable and workable standards?

Mr. MESERVE. The NRC doesn't have control over the EPA standards, so that aspect of the standards is the predicate within which the NRC must operate. It would be my intention—obviously one commissioner alone does not determine this—to establish standards for Yucca Mountain that are appropriate to the circumstances and provide adequate protection of the public health, safety and environment. That would be the starting point for what the Congress has a right to expect from the Commission. It would be my intention to try my best to fulfill that obligation.

Senator CRAPO. Do you have a position on whether the Congress should leave jurisdiction with the EPA or should move jurisdiction to the NRC on this issue?

Mr. MESERVE. I don't have an informed opinion on that, not having served on the NRC and not having worked directly with the EPA on that issue at this moment. That would be something I would expect I will be learning if I am confirmed.

Senator CRAPO. I am sure if you are confirmed that this is going to be an issue we will deal with and very closely.

Thank you very much.

Senator CHAFEE. I have the same two questions for you. Are you willing at the request of any duly constituted committee of Congress to appear in front of it as a witness?

Mr. MESERVE. Yes, sir.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you're confirmed?

Mr. MESERVE. No, I do not.

Senator CHAFEE. This committee has had some hearings on the NRC wherein the NRC has been criticized by both industry and environmentalists for its regulatory policies. Do you think the NRC can improve its effectiveness so as to allow efficient industry operations while ensuring public safety? In other words, is safety and efficiency mutually exclusive?

It does seem to me as somebody watching this that in the United States there are no new plants under construction. Am I correct in that?

Mr. MESERVE. That's correct.

Senator CHAFEE. Part of it is obviously due to the lower price per kilowatt hour and that's understandable. It's a difference of 12 cents for nuclear new construction and 3 cents for gas. Does that sound right?

Mr. MESERVE. I think it varies from one part of the country to another.

Senator CHAFEE. You and I discussed this briefly in the office the other day and it seems to me that the regulations are sort of a moving target. Anybody would be a bold person I think, any power company would be quite bold to undertake construction nowadays

because it just seems to go on interminably, the regulations and the difference in cost but that's not going to be there forever.

So we see what happens in France where more than 50 percent of the power is generated by nuclear power.

Mr. MESERVE. I think it's a higher percentage than that.

Senator CHAFEE. And higher than that. Germany likewise, very substantial. I don't know what it is but very substantial. Do you see anything changing this? Obviously you can't affect the price of natural gas, but do you think these things are mutually exclusive, that safety means tremendous delay?

Mr. MESERVE. There are several thoughts I have had as you have asked the question. I don't think that safety and efficiency are mutually exclusive. I think that the NRC has started on the process of trying to adjust its regulatory system so that the most significant risks are addressed to cut out regulation that isn't serving any function.

They have been doing this in a process they call risk-informed regulation and they have some pilots underway that for the most part, to the extent they have been completed, have worked out well. They are going to provide the foundation for changing the regulatory system.

These initial pilots are going is something that is going to be very important in trying to find a way to have the regulatory system operate more efficiently and thereby minimize needless costs that industry is asked to bear in order to assure safety.

Senator CHAFEE. At the end of the whole thing, you've got what to do with the waste material?

Mr. MESERVE. That's right.

Senator CHAFEE. Which hasn't been solved.

You are going into a challenging position and we're delighted. You are well prepared for it and I think the President has chosen widely.

Thank you for your testimony.

General Anderson, Mr. Sam Angel and General Griffin, if you could come forward, we'd appreciate it.

Gentlemen, we welcome you. I am a great admirer of the Corps of Engineers. I've seen the work you have done around the world, not only in the U.S. I don't know whether you gentlemen ever served in Saudi Arabia?

General ANDERSON. Mr. Chairman, I did. We both did.

Senator CHAFEE. I must say the Saudis are unqualified in their admiration for the U.S. Corps of Engineers. I guess they have had some people take advantage of them over there and they look to the Corps as straight shooters, honest and I've heard them give you tremendous praise. That is just one section of the world and you have done wonderfully elsewhere.

I hope you knew that you were well received in Saudi Arabia. I suspect you did.

General ANDERSON. Yes, Mr. Chairman.

Senator CHAFEE. General Anderson, why don't you proceed with any comments you have.

**STATEMENT OF MAJOR GENERAL PHILLIP R. ANDERSON, U.S. ARMY, NOMINATED BY THE PRESIDENT TO BE PRESIDENT AND MEMBER OF THE MISSISSIPPI RIVER COMMISSION**

General ANDERSON. Mr. Chairman and members of the committee, I'm honored to appear before you as the nominee for president and member of the Mississippi River Commission. I'd like to make an abbreviated statement about the Mississippi River Commission, the Mississippi River and Tributaries Project and my qualifications for the position for which I've been nominated.

The Mississippi River Commission established by act of Congress on June 28, 1879, consists of seven members all of whom are appointed by the President of the United States subject to confirmation by the Senate. Three members are Corps of Engineers officers, one of whom serves as president; one member is from the National Oceanic and Atmospheric Administration; and three members are from the civilian sector, two of whom must be civil engineers.

From its inception in 1879, the Commission has been charged with the task of planning and implementing a program of flood damage reduction projects and navigation improvements on the Mississippi River. More recently, project purposes have been expanded to include environmental restoration.

As established in 1879, the Commissioners were to serve as advisers in planning and implementing water resource projects and programs on the Mississippi River between the Head of Passes below New Orleans to its headwaters. Since 1928, the Commission has focused on the Mississippi River and Tributaries Project authorized by the Flood Control Act of 1928 to be implemented under the oversight of the Commission.

The MR&T Project extends generally from the confluence of the Ohio River to the Head of Passes below New Orleans and covers portions of seven States. It receives water from all or portions of 31 States or roughly 41 percent of the contiguous United States.

A major flood on the lower Mississippi River would have catastrophic effects on the inhabitants of the Mississippi Valley and the economy of the Nation were it not for the protection provided by the levees and other flood control works along the mainstem of the Mississippi and the Atchafalaya Rivers.

In addition, the navigation features of the project help to maintain the river for shipping import and export commodities between inland ports and world markets.

Reorganization of the Corps of Engineers in April 1997 placed the entire length of the Mississippi River within one division of the Corps of Engineers. I serve as the Commander of the Mississippi Valley Division. Command of the division office traditionally has also included duties as President of the Mississippi River Commission. The reorganization of the Corps now allows management of the Mississippi River as a single and unified system and enables the President and members of the Commission to more effectively serve as advisers to the Chief of Engineers as authorized in the 1879 legislation.

In regard to my personal qualifications, I'd like to mention that I am a licensed professional engineer in the Commonwealth of Virginia and since July 1997, I have served as Commander of the Mississippi Valley Division and also as President-designee of the Mis-

Mississippi River Commission. In this position, I have led and managed the Corps' water resources program in the Mississippi River Valley.

If confirmed to the position, Mr. Chairman, I would look forward to playing a key role in the continual improvement of the Mississippi River system and the MR&T Project by applying the most modern practices in water resources engineering. I would also look forward to being the president of a commission that not only focuses on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway, but also incorporates programs and projects for environmental protection and restoration.

This completes my prepared statement and I'd be pleased to respond to any questions.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you very much. You certainly have an impressive biography. I was looking at it here. We're delighted that you've been nominated for this position.

I was looking over the names of those who serve on the Commission with you.

Mr. Angel?

**STATEMENT OF SAM E. ANGEL, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION**

Mr. ANGEL. Mr. Chairman, in the essence of time, and with your permission, since my statement was almost the same as General Anderson's, I would just like to state my qualifications.

Senator CHAFEE. Yes, please do.

Mr. ANGEL. I have served on the Mississippi River Commission since September 1979. This confirmation will provide my third consecutive 9 year appointment to this vital commission. I firmly believe that my experience since 1979 and partnering with local interests, the local levee boards, and Federal, State and area agencies and organizations justifies my reappointment to the Mississippi River Commission.

I am a native of Lake Village, Arkansas and was reared adjacent to the Mississippi River. I feel that the many years of living and working in this area and also being affiliated with the Commission has given me vast knowledge of the Mississippi River and the various problems associated with it.

It has been my privilege to meet many people over the years, both in the lower valley and recently in the upper valley to discuss with them their concerns regarding this powerful river.

I have served as President of Epstein Land Company and Epstein Gin Company in Lake Village, Arkansas since 1980. I am a commissioner of the Chicot County Watershed District and former Commissioner of the Chicot County Rural Development Authority and the Southeast Arkansas Levee District.

I currently serve as director of the Cotton Warehouse Association and the Southern Cotton Gin Association, along with local, State and national farming organizations.



I attended Louisiana State University and the University of Arkansas at Monticello. I served with the Army National Guard from 1957 to 1965, and with the United States Army from 1961 to 1962.

If confirmed to this position, I look forward to continuing to play a key role in the continual improvement of the Mississippi River system the MR&T Project by applying the most modern practices in water resources engineering.

I would also look forward to renewing my membership on the Commission that not only focuses on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway but also incorporates program and projects for environmental protection and restoration.

I have attached a complete biography on myself and a current list of members of the Mississippi River Commission.

This completes my statement. Thank you very much, Mr. Chairman.

Senator CHAFEE. Thank you very much.

Now we will go to General Griffin.

**STATEMENT OF BRIGADIER GENERAL ROBERT H. GRIFFIN,  
U.S. ARMY, NOMINATED BY THE PRESIDENT TO BE A MEMBER  
OF THE MISSISSIPPI RIVER COMMISSION**

General GRIFFIN. I will also abbreviate my abbreviated statement. I have a written statement for the record as well.

Among my qualifications, I am also a registered professional engineer licensed in Virginia and as a former District Commander in Mobile District and Chief of Staff for the U.S. Army Corps of Engineers, Headquarters, I believe I've gained valuable experience in the project operation and authorization process.

One important role of the Commission is to consider affects the tributary basins. As a recent Commander of the Northwestern Division, I was intimately involved in responsibilities for the Missouri River Basin, one of the major tributaries of the Mississippi River. I have since moved in the last 2 months and am now the Commander of the Great Lakes and Ohio River Division with responsibilities for the Ohio River. I have been serving as a member-designee in my former capacity for almost 3 years next month. I believe that will bring a unique perspective to the Commission discussions for ongoing and future projects.

Additionally, my time spent in the Pacific Northwest, as Senator Crapo well knows, although he left, provided great experience for me in developing projects while considering environmental issues.

If confirmed, I look forward to participating in the continuing operation and improvement of the Mississippi River System.

That concludes my remarks subject to any questions you may have of me.

Senator CHAFEE. Thank you very much.

I think both General Anderson and Mr. Angel mentioned environmental concerns in connection with all this. What do you say about the criticisms that the channelization—this is old stuff to you and I'm sure you've got answers to it—of the Mississippi as opposed to not letting it flood into the actual area has been overdone and there should be greater releases into the swamplands, wet-

lands. Is that just oversimplification? Do you have any comments on that, General Anderson?

General ANDERSON. Yes, Mr. Chairman. I would tell you that we have a balancing act in the Mississippi River Commission of looking at flood control and navigation as well as environmental protection. With respect to our responsibilities for navigation and flood control, it is necessary in the lower valley to limit the meandering of the river that has happened in our history so as to reduce the flooding and keep the river within the leveed system that we have.

We've been very successful at that. We've invested in the Mississippi River and Tributaries Project \$10 billion since the start of the work but we have received \$226 billion in flood damage reduction as a result.

Senator CHAFEE. Are these major floods that have been taken care of?

General ANDERSON. Yes, sir. With respect to your question about the levee system and with the revetments to keep the river from meandering, what about the sediments that traditionally flowed downstream and helped to build the Delta in the Louisiana area? Clearly, there has been a loss of wetlands, coastal wetlands in the Louisiana area. The Commission recognizes that and so we are proceeding with freshwater diversion projects that will take advantage of the water that's rich in nutrients and sediments to try to restore some of these lost wetlands.

We are on the front end of a 10-year study called "Coastal 2050" where we're looking to do more of these freshwater diversion projects to protect the coastal wetlands of Louisiana. So it's a balancing act, Mr. Chairman, and we try to meet our environmental, navigation and flood control responsibilities together.

Senator CHAFEE. Do you have thoughts on that, Mr. Angel?

Mr. ANGEL. I certainly agree with General Anderson. We take a balanced view of almost everything we do. We give just as much attention to the environment, as we do flood control and navigation, but I think you have to incorporate all three in our Commission.

Senator CHAFEE. I'd ask each of you the questions I've asked the others. Are you willing, at the rest of any duly constituted committee of Congress to appear in front of it as a witness?

General ANDERSON. I am, sir.

Mr. ANGEL. I am, sir.

General GRIFFIN. Yes, sir.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed?

General ANDERSON. No, sir.

Mr. ANGEL. No, sir.

General GRIFFIN. No, sir.

Senator CHAFEE. Obviously you gentlemen have had vast experience in these areas and have impressive backgrounds. I will say that I am concerned about the environmental aspect you've discussed. You're going to learn something from the study you're undertaking; that's the whole purpose. It's not a delaying action and so I commend you for that and thank you all for coming this afternoon.

With that, we will conclude our hearing.  
 That completes the hearing.  
 [Whereupon, at 4:25 p.m., the committee was adjourned, to reconvene at the call of the Chair.]  
 [Additional statements submitted for the record follow:]

STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Thank you, Mr. Chairman, for holding this important nomination hearing. I look forward to hearing from the nominees today, and hope that we can move forward in confirming qualified individuals to positions with the Nuclear Regulatory Commission, the Chemical Safety and Hazard Investigation Board, and the Mississippi River Commission. These agencies serve critical public roles. For example, the Chemical Safety and Hazards Investigation Board, serves an essential function providing independent investigation of chemical accidents, and exerting oversight to prevent future catastrophes. I was a strong supporter of the Board since its inception, and advocated strongly with my colleague Senator Lautenberg for adequate funding for the Board.

I am particularly interested in hearing from Mr. Richard Meserve, the nominee for the Nuclear Regulatory Commission. As a supporter of nuclear power, I believe that a strong NRC is essential to maintaining public confidence in the industry. In recent years I have worked closely with the Commission to address some serious concerns that arose after problems at the Millstone nuclear plants in Connecticut. I was very pleased at the efforts that former Commissioner Dr. Shirley Jackson made to conduct extensive safety reviews, and to oversee the plants in preparation for a restart this year. The NRC has played a very important role in ensuring public health and safety protections are in place at nuclear facilities in my State and around the country.

I will also be interested to hear Mr. Meserve's views regarding the NRC's efforts to move toward risk-informed regulation. Certainly it seems to make sense to prioritize safety concerns, and to effectively leverage limited resources. However, I also view it as essential that the NRC respond to some issues raised by a recent GAO report, which found that the NRC needs to develop more specifics on how the Commission will define and implement risk-informed regulation, and improve the base of knowledge regarding the condition of individual plant conditions and modifications. It is essential to ensure that information sharing in the area of safety does not suffer as we move to a competitive nuclear industry.

I have several questions I would like to ask the Mr. Meserve in preparation for his pending nomination, and hope that, if confirmed, Mr. Meserve will continue the strong leadership that was shown by his predecessor.

Again, I look forward to hearing from all the nominees this morning. Thank you.

STATEMENT OF HON. ROBERT C. BYRD, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Mr. Chairman, Senator Baucus, and Members of the Committee, I thank you for the opportunity to introduce to you this afternoon my constituent, the Honorable Dr. Paul L. Hill. Dr. Hill is the current Chairman of the U.S. Chemical Safety and Hazard Investigation Board, and has recently been renominated by the President, with my support, to serve a second term as Chairman.

Dr. Hill holds a Ph.D. from the University of Louisville and Bachelor of Science and Master of Science degrees from Marshall University in West Virginia. Dr. Hill has dedicated 20 years of his career to chemical safety, regulation, and public policy. This includes 7 years as President and CEO of the National Institute of Chemical Studies located in the Kanawha Valley of West Virginia, which is also home to a thriving chemical industry on which the State and the world depend.

It is in this capacity that I am most familiar with Dr. Hill's abilities. The chemical industry is a critical component of the West Virginia economy. However, we all know that many chemicals are sensitive and volatile and that chemical accidents which pose significant threat to life and the environment can and do occur. When they do occur, public outcry for immediate remedy is often at odds with the viability of the business involved. Dr. Hill established his credibility within the field of chemical safety by working with government, industry, and the public to better manage chemical risks while still sustaining environmentally responsible economic growth in the industry. Thoughtful, studious, and effective, he has demonstrated calm and

effective leadership not only in more mundane, day-to-day circumstances, but also in the highly charged emotional atmosphere that accompanies the real-life nightmare of a chemical accident.

In 1993, when the President began looking for candidates for the U.S. Chemical Safety and Hazard Investigation Board, I had no hesitation in bringing Dr. Hill's interest in serving on the Board to the Administration's attention. I was very pleased that the President and this Committee also recognized Dr. Hill's qualifications to lead this new independent agency. However, for the first 3 years of his 5-year term as Chairman, delays in providing funds to initiate the Board's activities kept that body from serving its appointed role. I hope that my colleagues will look favorably on Dr. Hill's nomination to a second term as Chairman of the U.S. Chemical Safety and Hazard Investigation Board.

In his year and a half tenure, Dr. Hill has lead a Board which, while still in its infancy, has as its mission to ensure the safety of workers and the public by eliminating chemical accidents. To date, the Board has investigated 22 chemical accidents, and completed reports on three. The Board's initial research indicates that on average, 253 Americans die each year as a result of chemical accidents. Dr. Hill knows that this is unacceptable and that the success of his tenure will be measured by the Board's effectiveness in reducing chemical accidents by finding out their cause and helping to find solutions to prevent similar accidents from occurring in the future.

In West Virginia and other States across the country with a high concentration of chemical plants, the existence of this Board provides greater peace of mind both to the plant workers and to those families living near the highways and railways that transport the chemicals. Dr. Hill has proved that, through diligence, cooperation, and forward-thinking, dangerous situations can be avoided, and lives can be protected.

I am proud to introduce a man of Dr. Hill's caliber, and I hope that you will express confidence in his abilities to guide this worthy organization in its next 5 years by approving his renomination.

Thank you again for this opportunity.

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STATEMENT OF PAUL L. HILL, JR., NOMINATED BY THE PRESIDENT TO BE CHAIRMAN  
OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Chairman Chafee, Senator Baucus. Honorable members of this Committee.

It is an honor for me to appear before you to answer questions by which you may assess my capability to continue to serve as the Chairman and Chief Executive Officer of the Chemical Safety and Hazard Investigation Board (Board or CSB). I am further honored that it was Senator Robert C. Byrd, who first recommended me for this position. Humbled as I am that the President of the United States has placed faith in me by again submitting my nomination to you for confirmation, I want to assure you that I will continue to dedicate myself to working as a partner with Congress in fulfilling the Board's mandate. My goal is to continue to build a 21st Century model of good government.

I have been allowed to serve as Chairman of the Board for only a short period of time. During this startup phase, however, much has been accomplished for which I am extremely proud. There is much, much more work to do. Although this has not been easy and many challenges lie ahead, I look forward to the opportunity to meet these challenges if confirmed for a second term. Further, if the Committee would entertain engaging its oversight function, I would readily participate in the opportunity to explore various issues and challenges relative to chemical safety. In so doing, my approaches to implementation of Congress' intent could be aired with those who were directly involved in creating the Board's statutory authorities and, indeed, its very existence.

A SHORT TENURE

In its short 21-month history, the Board has undertaken several major investigations as much to learn and exercise various approaches to conducting investigative work as to determine cause. These activities have helped to chart the course and protocols for how investigations and safety programs will be structured in the future. Just last week I chaired a public inquiry into a tragic, fatal incident which not only cost human lives but also raised serious economic concerns for its impact on the community, State and Nation through loss of production. Exercises such as this one have allowed the Board to explore various mechanisms to achieve its safety mission and fully assess the potential impact of our important work.

When I appeared before you last, there was no Board. There existed only a statute, three nominees and the concept of a new agency to perform a new and necessary function. For the past 2 years I have guided the Board as it moved from concept to concrete. On January 5, 1998, our initial staff of 4, including one other Board member and me, opened our doors for business in 4 small offices. By May of last year, we had hired additional staff and outgrown that space, necessitating a move to the space we now occupy. Today, the Board has 4 members and 22 full-time staff.

If there has ever been a truly "from-the-ground-up" development of a Federal agency, the Chemical Safety and Hazard Investigation Board is it. After nearly 21 months in existence, the Board could still be called a virtual agency. We exist in temporary space, rent our furniture, borrow technical expertise from other Federal agencies and outsource the majority of our administrative functions. When the members of the House Appropriations subcommittee wished me "good luck" at my first appropriations hearing in early February 1998, none of us knew the extent of luck I would need. Still, in spite of the hurdles, in 21 months we have done what almost no one in government can remember happening: we created a Federal agency from scratch. Beginning with an exhaustive search, we determined there is no manual, book or "how to" guide for new agencies. Today, we could write one. Fortunately for me and the other Board members, we attracted a handful of seasoned, senior Federal employees to the staff. These employees were able to compliment the experience that I and several other members brought from outside the government.

Together, we took a business-like approach to this daunting task, following a plan and operating philosophy reflecting our belief that Congress expects government in the 21st Century to be lean, accountable and service oriented. We carefully reviewed not only the statute authorizing the Board but its extensive legislative history as well. In developing the agency, we made every attempt to reflect the Congress' charge to build on capabilities within the government. As the Board continues to evolve in concert with this mandate, we have signed interagency agreements and contracts to better utilize Federal resources that are already in place.

#### MANY ACCOMPLISHMENTS

Although we might be a virtual agency, our impact has been anything but virtual. Three days after opening our doors we initiated our first investigation that culminated in a report containing recommendations subsequently adopted and codified in State statute. We have issued reports on three chemical incidents, which caused 7 deaths and 14 injuries. The average time for completion of these reports was less than 12 months from the date of the incident or about one report for every 7 months of our existence.

These reports made a total of 28 recommendations to 13 different entities. The first report, involving the Sierra Chemical Company, resulted in the State of Nevada enacting legislation incorporating CSB's recommendations addressing bilingual training requirements, increased frequency of inspections of explosives manufacturing facilities, and piecemeal payment for workers in that industry. Recipients of recommendations resulting from the other 2 investigations (involving Union Carbide Corporation and Herrig Brothers Inc.) have implemented a number of the recommendations and have notified the CSB that they are considering how to best address the remaining ones. The CSB is currently investigating an additional 8 major chemical incidents. These incidents, which occurred in 7 different States, caused 33 deaths and approximately 50 injuries.

The CSB has produced investigation reports that are being widely circulated and have been used nationally and internationally by stakeholders for a variety of chemical safety purposes not originally envisioned. Two examples include: use of a report by the Bureau of Alcohol, Tobacco and Firearms to train its agents on how to conduct investigations; use of a report by the Safety Officer with the Hagerman, Idaho Fire Protection District to direct relocation of a potentially dangerous 14,000-gallon propane tank.

The CSB has garnered positive support from stakeholders as a result of its investigations and the resultant reports. For example, the Herrig Brothers report was widely praised by the fire and emergency response communities. As a result of its reports, the CSB has been repeatedly asked to give presentations to various groups, including the National Governors' Association.

At the Senate's behest, the CSB produced a major report on chemical safety preparedness as related to the Y2K computer issue. In connection with this report, the CSB hosted the first chemical industry workshop on the Y2K problem and its effect on chemical safety. The workshop involved national experts from industry, labor unions, and government agencies.

The CSB has developed a mechanism to provide the Federal Government its first ever look at the magnitude of reported chemical incidents in the United States. Although other agencies have suggested this was not possible or feasible, the CSB consolidated information from 5 key data bases maintained by other Federal agencies on reported chemical incidents. The CSB is now in a position to begin to answer the question of "how big is the problem?" and, "what impact are Federal agencies having on reducing the number and severity of chemical incidents?" This work also has given the CSB valuable information for use in deciding how to regulate the reporting of chemical accidents at the law requires us to do.

#### MUCH MORE TO DO

The CSB is today functioning though a still-developing organization that has implemented mission-critical programs as well as addressed governmentwide administrative requirements. It has relied on its business plan and operating philosophy to build what is coming to be recognized as an atypical government agency.

It may seem we've come a long way in 21 months. But, I can tell the Committee today something I only suspected when I was confirmed in 1994. Collectively, we have a long, long, long way to go to achieve what the Congress directed in 1990 be done. What I also now recognize and have begun to experience over the past 21 months is the enormous number of hurdles or obstacles that are placed, either deliberately or by chance, before us. We now have a better handle on the magnitude of the problem of reported chemical accidents based on our study of the government's own records. We know there are an average of 60,000 events annually involving accidental releases of chemicals, but we don't know why they occur. We know there are many Federal laws and regulations in place to prevent chemical incidents, but we don't know how effective they are. We know on average 256 people die in the United States each year in chemical accidents, but we don't know causes of these fatalities. We know that the United States has the greatest safety system of standards, rules, technology and worker training in the world, but we don't know what the system's failures are or its most basic trends.

The Board has begun and will continue to work on a variety of fronts to seek answers to these questions. Some have intimated that the Board should only conduct accident investigations as the sole source of these answers. This is errant thinking for two reasons. First, the Congress directed the Board to work with a variety of stakeholders and use a variety of mechanisms to gather, assess, and communicate safety information. Second, if the Board were to rely on its own investigations as the sole source of information, it would take either decades of work to build an "information trust" (data base) or enormous numbers of taxpayer dollars to collect information in a more rapid fashion, or both. While no one would question that the central mission of the Board must be accident investigation, the Agency cannot and will not make a major contribution to chemical safety without use of other mechanisms for enhancing safety. By assessing the existing government data bases and providing advances, communications, and tools to industry, policymakers and others exploring chemical safety, the Board will further expedite progress in chemical safety at a lower cost to the government.

While the CSB's partners are making a significant contribution, the government must bear certain unavoidable costs for independent investigations. With its current resources and small staff, the Board is challenged to conduct enough quality investigations to make a significant contribution to the national "safety system". Certainly, individual cases and issues are being addressed. However, given the sheer numbers, the technical complexity and the resources required for each case, direct incident investigation cannot be the sole approach. Should the Board conduct more investigations than it currently does? Yes. Without question, the Board has only begun to look at the variety, characteristics and distribution of chemical accidents in American commercial and industrial facilities. As our resources grow, so too, will the investigative workload.

I submitted an original business plan to the Congress in late 1997 which projected a phased approach to enhancing the Board's investigative capacity. While it ambitiously called for a number of investigations during the startup years, the plan also recognized it would take both infrastructure development and increased resources to produce timely, credible and accurate investigation reports. Only now does the Board have a fledgling infrastructure in place. With 22 staff members, the Board is poised to add staff and move ahead with focused investigations. My initial projections for both agency accomplishments and investigative products were predicated on building an infrastructure to support the investigative function. Again, I look forward to the opportunity to discuss accomplishments to date and a strategic plan with the Committee.

I have emphasized that communication of results plays a pivotal role in the Board's effectiveness. Laws and regulations, while necessary, are not enough. Dry, technical reports placed on the government's shelves are not enough. In contrast, I have placed special emphasis on "plain English" communication. The effectiveness of all safety information rests on the commitment of industry leaders and facility operators to ensure that equipment functions properly, employees are well-trained and supervised, and well designed operating policies and procedures are established and followed. Only people can make those differences. But in order for people to take actions that do, indeed, make the desired difference, they must have factual, timely information made available to them. In recognition of this need, and to ensure that the work of the Board finds its way into the hands of those who bring about change, I have placed major emphasis on direct and rapid dissemination of the Board's findings and recommendations.

Effective communication is especially applicable to chemical workers. Adequate knowledge of chemical risks and proper equipment operation and maintenance will prevent accidents. Chemical workers are not dispensable, they are vital to the success of safe chemical management. The Board will continue to pay particular attention to worker safety.

In addition to worker and industrial communication, an equally important aspect is a focused effort on improving communication between government, industry and the public. Technical competence is often lost on the public due to the lack of appropriate communication skills. In my experience, the American people want to know what risk they face from chemicals in plain understandable terms. Likewise technical individuals often cannot comprehend the fears and concerns of a nontechnical public. While the very issues are technical in nature, they are also often steeped in basic miscommunication. The Board is already placing practical information and recommendations not only in the hands of regulators but also in the hands of the American people so that technical and nontechnical issues are clearly understood. In light of the positive response we routinely receive in this area, I remain convinced that communication programs are absolutely essential for the Board.

To fulfill our responsibilities, it is critical that the Board establish a collaborative relationship with many partners in chemical safety. Our website is continuously disseminating new information generated by our work so we can assist our stakeholders and they, in turn, can assist us. By adopting this partnership philosophy, the Board is leveraging the work of others as Congress encouraged us to do. This allows us to provide maximum benefits in the shortest time possible, and avoid duplicative or unnecessary operating and research expenditures.

#### CONTINUING THE CHALLENGE

Chemical safety is critical to the success of the chemical industry and the communities where chemical facilities are located. The work of this Board, therefore, is vitally important. Understanding the causes of serious chemical releases is necessary for release prevention efforts to be fully effective. My experience with the chemical industry and the affected public has been very positive. I am confident that I and the Board will continue to receive complete cooperation and assistance from all concerned groups, individuals, and government agencies as we continue to evolve as an organization and implement our statutory mission.

Clearly, I appear before you today because I want to continue in my current capacity. My plans for the direction of the Board remain quite straightforward. All activities must be conducted with chemical release prevention as the goal. The role of the Board in investigation is not to assign blame but is instead to provide a critical tool for accident prevention. While we, as well as other agencies, will try to anticipate all contingencies, it is impossible to prevent all chemical releases. Determining probable cause of chemical releases is important in order to identify, catalogue and correct previously unidentified problems. I have directed my staff to conduct as thorough investigations as available resources will allow and to focus their efforts on prevention of similar releases in the future. Prevention is a mission I've devoted my career to achieving. I feel very strongly that the Board should continue this pursuit.

#### COMMITTEE OVERSIGHT

Congress has set a formidable task before the Chemical Safety and Hazard Investigation Board: to make the world of chemicals safer and the world safer from chemicals. If confirmed, I intend to continue devoting my energies to accomplishing that task. With your support, I am confident the Board members and staff already in place will be able to move our Nation toward this worthy goal, and, in the proc-

ess, build on the emerging recognition and respect for the Board as a credible and competent chemical accident investigative agency.

I've now had nearly 2 years of experience working to implement the Congress' directives to the CSB contained in the Clean Air Act Amendments of 1990. Today, I ask that the Committee consider in the near future a few minor modifications to the Board's statutory language in the interest of efficiency and cost effectiveness. I have shared my suggestions with Committee staff and vetted the concepts with several major stakeholders resulting in broad support for such modifications.

New agencies are not started everyday. It is my desire to keep the Congress directly and adequately informed of my agency's progress and development as a new component of the government. While you have entrusted that management charge to me over the past 2 years, I would welcome the opportunity to provide the Committee greater details, should the Committee confirm me for a second term. An oversight hearing or a meeting to discuss proposed statutory modifications would give all parties the opportunity to review the intent of Congress as we move forward to meet that intent.

If confirmed as Chairman, I intend to continue seeking the finest staff available to assure that the critical safety issues presented by the manufacture and use of chemicals in this country are properly evaluated, investigated and addressed. The President, Congress, the chemical industry, the chemical workers and the American public expect and deserve no less. I am honored to have been nominated by the President to continue this important work. I pledge to you my total dedication to successfully managing an efficient and effective agency.

Thank you for permitting me to address this Committee. I welcome the opportunity to answer any questions you may have and look forward to working with you in the future.



**UNITED STATES SENATE****COMMITTEE ON ENVIRONMENT  
AND PUBLIC WORKS**

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

**INFORMATION****REQUESTED OF PRESIDENTIAL  
NOMINEES**

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

**Name of Nominee:** Paul L. Hill, Jr

**Business Address:** 2175 K Street Northwest  
Suite 400  
Washington, D. C. 20037

**Business Phone:** (202) 261-7600

**Home Address:** 3400 Hillpoint Drive  
Charleston, West Virginia 25302

**Home Phone:** (304) 342-4293

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**Employment record—continued**

8/83 – 9/87	West Virginia Water Resources Board	Science and Technical Advisor
9/87 – 11/88	West Virginia Dept. of Natural Resources	Deputy Administrator
11/88 – 6/90	National Institute for Chemical Studies	Vice President – Proj. Dir.
6/90 – 11/97	National Institute for Chemical Studies	President and CEO
11/97 – Present.	U S Chemical Safety and Hazard Investigation Board	Chairman and CEO, Member

(Note: Although appointed in 1994, the USCSHIB was not funded until late 1997)

**Honors and awards:**

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Benedum Scholarship 1972-1973; Cora Hyper Foundation Scholarship 1973-1975; Dean's List Marshall University 1973-1976; Chi Beta Phi – National Science Honorary 1976; Honor Graduate Marshall University Graduate School 1978; Academic Excellence Award 1982, 1983; University Honors 1983; Graduate Dean's Citation 1983; Beechmont Award 1983; Outstanding Young Men of America 1988; Special Recognition: Outstanding Graduate Award 1993 Marshall University Graduate School Alumni; Who's Who Among Outstanding Americans 1994, 1998; Dedicated Service and Outstanding Leadership Award, National Institute for Chemical Studies, 1997.

**Memberships:**

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Kanawha – Putnam Local Emergency Planning Comm.	general member	1990-96
Kanawha Valley Emergency Preparedness Council	general member	1990-94
The Nature Conservancy	general member	1991-94
West Virginia Environmental Institute	Board Member	1992-97
Society for Risk Analysis	general member	1991-93
National Assoc. of Environmental Professionals	member	1991-93
Mana Meals Inc.	Board Member	1993-96
Institute for Env. Mgt.	Board Member	1989-91

**Qualifications:**

State fully your qualifications to serve in the position to which you have been named.

Over the past 20 months, I have developed and instituted the programmatic basis and infrastructure of the United States Chemical Safety and Hazard Investigation Board. As the most

**Qualifications—continued**

recent independent federal agency created by the Congress, this entity is now on its way toward meeting the Congress' directive within the 1990 Clean Air Act Amendments. With advanced degrees in the hard sciences, my career has focused on environmental policy, government agency administration, and regulatory compliance of industrial facilities over the past 20 years. In conjunction with US EPA, I have also established innovative policy and programs by helping disparate groups of stakeholders concerned with chemical industry practices. During the past 15 years, I have worked directly with the chemical and petroleum industries addressing issues of accident prevention, accident review, hazards assessment, emergency response, and public notification. My work with the WV Water Resources Board involved reviewing evidence for industrial permits, including process engineering, toxicology, preventive maintenance, and pollution abatement and providing recommendations for adjudication of regulatory issues. Both government and non-government positions have required articulating and/or administering provisions of various state and federal environmental and workplace safety statutes. In 1994, I led a multifaceted effort involving environmental, labor, government, community leaders, and numerous chemical manufacturers to provide Risk Management Plans as a model for the 1990 Clean Air Act Amendments.

**Future  
employment  
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Renomination. I am currently in the position for which I have been renominated.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no such contemplation or plans.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

N/A.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

I currently hold the position for which I am also nominated for a second term. I have not departed from government service.

**Financial  
Statement**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

The New England Companies, Mutual Funds (Growth Fund, Star Advisors Fund) \$50,001 to \$100,000 retirement account. Payable upon retirement.

2. Are any assets pledged?

No.

3. Are you currently a party to any legal action?

No.

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

Yes. Routine audit for tax year 1982. Result : No increase or decrease in tax paid or refunded. No penalties.

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Other than the Mutual Fund in item #1 above, no compensation agreements, dealings, etc. exist.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

As President and CEO of the National Institute for Chemical Studies (NICS), I successfully negotiated cooperative agreements, contracts and grants for research with federal agencies, including USEPA, USDOT, and USDA-Forest Service.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Any appearance of conflict of interest was resolved by resignation and severance from NICS in 1997.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

As a current federal employee, I have no compliance issues. See the attached ethics statement, next section, item # 1

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**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

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Member, Democratic Party    No contributions, offices, or services.

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**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

\*Transportation of Hazardous Materials in the Kanawha Valley: A Pilot Study (report and speeches); The Kanawha Valley Risk Assessment Project – Safety Street: Managing our Risks Together (report, video and speeches); Assessing Hazardous Materials Transportation in the Kanawha Valley (report, press conference and speeches); WV Scorecard: Pollution Prevention and Reduction in Industry (report, press conferences and speeches); Protecting the Public in a Chemical Emergency (conferences, report, workshops and speeches); Numerous recent speeches regarding the role and function of the US Chemical Safety and Hazard Investigation Board (nationwide)

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**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

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Resume is attached.

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Additional matters—continued

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2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

None.

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AFFIDAVIT

Paul W. Huffer ) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 17th day of September 1999.

Darlene F. Isom  
Notary Public

DARLENE F. ISOM  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires September 14, 2003



## BIOGRAPHICAL SKETCH

PAUL L. HILL, JR., Ph.D.

Paul L. Hill, Jr. is Chairman and Chief Executive Officer of the United States Chemical Safety and Hazard Investigation Board. He was appointed to this position by President Bill Clinton and confirmed by the full U.S. Senate in 1994.

Paul has nearly 20 years of professional experience in chemical safety, regulation, and public policy development including seven years as President and CEO of the National Institute for Chemical Studies and five years in West Virginia state government at the Department of Natural Resources and Water Resources Board. He has been an active member of numerous national organizations including the nine-state Ohio River Sanitation Commission, the U.S. EPA Advisory Committee on the Clean Air Act, the Society for Risk Analysis, the National Association of Environmental Professionals, and the Chemical Industry Training in Occupational Safety and Health Consortium. Dr. Hill has worked with the National Demonstration Water Project in rural Appalachia and the Outer Continental Shelf Environmental Assessment Program in Alaska. His Alaskan assignments included extensive petroleum spill research aboard the U.S. Coast Guard Ice Breaker "Polar Star."

An experienced communicator, Paul is a frequent speaker before national and international audiences and has participated in numerous media interviews with television, radio, newspapers, trade press, and scientific journals regarding environmental, workplace, and chemical safety. He has testified before Congress on various agency-related issues and policies.

Dr. Hill holds a Ph.D. from the University of Louisville and B.S. and M.S. degrees from Marshall University. A natural science major, Dr. Hill specialized in Environmental Chemistry. He is married to Nancy Nelson Hill and has one daughter, Summer Gabrielle, age nine.

**CURRICULUM VITAE**

**NAME:** PAUL LESTER HILL, JR.

**BIRTH DATE/PLACE:** July 20, 1954. Madison, West Virginia

**PRESENT POSITION:** Chairman and CEO, United States Chemical Safety and Hazard Investigation Board

**OFFICE:** 2175 K Street, N.W.  
Suite 400  
Washington, D.C. 20037  
(202) 261-7600

**EDUCATION:** University of Louisville, Louisville, KY  
**Ph.D.** Doctor of Philosophy degree, 1983  
Major in Biology. Emphasis on Systems Ecology, Environmental Chemistry, Monitoring and Management.

Marshall University, Huntington, WV  
**M.S.** Master of Science degree, 1978  
Major of Biological Sciences

Marshall University, Huntington, WV  
**B.S.** Bachelor of Science degree, 1976  
Major in Biology, minor in Chemistry

**SPECIAL RECOGNITION:** Benedum Scholarship 1972-1973, Cora Hypes Foundation Scholarship 1973-1975, Dean's List Marshall University 1973-1976, Chi Beta Phi - National Science Honorary 1976, Honor Graduate Marshall University Graduate School 1978, Committee for Academic Excellence Award 1982 & 1983, University Honors 1983, Graduate Dean's Citation 1983, Beechmont Award 1983, Outstanding Young Men of America 1988, Special Recognition: Outstanding Graduate Award 1993-Marshall University Graduate School. Who's Who Among Outstanding Americans 1994. Who's Who International 1998.

**PUBLICATIONS:** Numerous scientific research publications including master's thesis, doctoral dissertation and agency reports and position papers. Numerous newspaper articles, public speaking engagements, television and radio interviews.

Topics include wetland ecology, mine drainage abatement, chemical accidents and emissions, public health, community safety, emergency response, pollution prevention, public policy and chemical safety.

**CAREER EXPERIENCE:**

**November 1997-Present**      **Chairman and CEO**  
**United States Chemical Safety and Hazard Investigation Board**  
**2175 K Street, N.W.**  
**Suite 400**  
**Washington, D.C. 20037**

Appointed by President William Jefferson Clinton in 1994, began serving as Chairman and CEO in 1997 after funding was approved to start-up the agency by Congress. This is a unique and exciting opportunity to begin a new federal agency utilizing private-sector business principals based on service to America's taxpayers. The Chemical Safety Board is authorized and defined by the Clean Air Act Amendments of 1990 based on the model of the National Transportation Safety Board (NTSB). The CSB is a non-regulatory, scientific investigative agency whose mission is to provide recommendations for the prevention of future chemical accidents. The agency has embarked on a four-year phase in of its operations in concert with the Administration and the Congress. The Chairman is responsible for all aspects of the CSB's administrative, investigative, budgetary, congressional, board and public affairs. Details and current activities of the Board are available at web site: [www.chemsafety.gov](http://www.chemsafety.gov) on the world wide web.

**June 1990 – November 1997**      **President and Chief Executive Officer**  
**National Institute for Chemical Studies**  
**2300 MacCorkle Ave., S.E.**  
**Charleston, WV 25304**  
**304/346-6264**

Served as Chief Executive Office for this unique non-profit research institute which was established to bridge the communication gap between the chemical industry, government and citizens. The primary goal of the Institute is to research and publicly communicate results of analyses and to address such broad concerns as safety, environment, emergency preparedness, economics and health. As a non-regulatory, non-government institute, NICS seeks innovative approaches to resolving conflicts by addressing public issues.

Assumed leadership position of the Institute encompassing full responsibility for administration and executive decision-making in June 1990. Responsible for all NICS committee activities including, Executive, Nominating, Personnel, Finance, Program, and Communications Committees; work with 24 member Board of Directors, congressional ex-officios and numerous community groups; authorize contractual agreements; oversee finances and facilitates fundraising; central spokesperson for the agency; numerous speaking engagements; serve as local and national outreach liaison; a high degree of public visibility and opportunity to provide constructive comment on a variety of environmental/ social issues.

**1988 - 1990**      **Vice President/Project Director**  
**National Institute for Chemical Studies**

Managed projects and coordinated activities for the Institute. Interacted with plant management, environmental groups, public officials, regulatory personnel, the media and concerned citizens. Projects include in-depth assessment of industry practices, development of dialogue among the involved parties, organization of materials and events to educate and inform community members about chemical industry issues, facilitating the

reduction of chemical waste discharges to the environment, participation in health effects studies, enhancement of emergency response capabilities, and development of chemical information database(s) . Also provided written progress reports and project results to the President and Board of Directors, supervised the full-time staff, prepared grant applications, served as secondary outreach liaison, evaluated consultants for specific Institute projects and was responsible for assuring that quality reporting standards were met as objectives were achieved.

1987 - 1988

**Deputy Administrator  
Environmental and Regulatory Affairs  
West Virginia Department of Natural Resources  
Bldg. 3, State Capitol Complex  
Charleston, WV 25301**

Duties included assisting in the planning and supervision of the staff of the Environmental and Regulatory Affairs Office and relieving the Administrator of office and functional details, coordinated the State 401 Certification Program, conducted field research and assessed environmental impact of proposed projects. Required to gather factual data, review a wide variety of materials, evaluate proposals and prepare written reports. Also conducted in-depth investigations, prepared both summary and/or complex reports requiring advanced analysis of the impacts of environmental issues related to DNR and other agencies in the public sector, as well as impacts on private business, individuals, or in the industrial community. Reviewed legislation, proposed legislation, court opinions, statutes, and proposed rules and regulations to evaluate possible impacts and to provide recommendations and possible courses of action for the administration. Position required harmonious working relationships with various federal, state, private and public interests, a working knowledge of state and federal environmental statutes, and coordination with several agencies. Prepared regulatory and statutory documents as well as day-to-day correspondence for the Director's signature.

1983 - 1987

**Technical Advisor  
West Virginia Water Resources Board  
1260 Greenbrier Street  
Charleston, WV 25311**

Provided research on water quality related uses and quality criteria as they related to West Virginia and contiguous state waters. Reviewed and kept the Board advised of up-to-date scientific literatures, EPA publications, university studies, etc. relating to various chemical and physical impacts to freshwater aquatic life, plants and human health. Other duties included: public relations/coordination work with the Department of Natural Resources and other branches of state government, citizen groups, industrial representatives, technical personnel and private individuals; coordinated the State Water Quality Regulatory Program with the U.S. EPA of Region III (NPDES, Water Quality Standards, etc.) ; represented the Board of various functions, professional symposia and regulatory and/or scientific meetings; participated in various committees and advisory groups, including the state's Groundwater Task Force; coordinated research projects; conducted analyses; reviewed all petitions for water quality standard revision and variance requests; reviewed all technical information for adjudication of contested environmental permits; arranged meetings, seminars and group discussions on policy issues; wrote and received agency correspondence; represented Board before legislative committees and at legislative hearings; updated Board on associated agency projects, programs, strategies and policies; consulted with Board's legal staff on implications of new technologies, standards and regulation language as well as compliance with state and federal environmental protection acts.

**1981 - 1983 Graduate Research Assistant, Systems Science Institute, Center for Environmental Science and Management, University of Louisville, KY.** Duties included data gathering and analysis for ecosystem studies on Western Kentucky Coalfield grant. Charged with all water quality sampling, project design, analysis, interpretation and reporting.

**1980 - 1981. Research Analyst II, University of Louisville, Biology Department, Louisville, KY.** A research staff position held through allocations of grants by the Outer Continental Shelf Environmental Assessment Program (OCSEAP). Duties included microbial analysis, inoculation, transfer and culture, Petroleum chemistry, analysis of hydrocarbons via gas chromatography and application of various techniques pertaining to the field of microbiology were also conducted. Field sampling and application was necessary during extensive trips to the Bering and Chukchi Seas off the coast of Alaska, on the Aleutian Islands and along the Alaska Pipeline north of Fairbanks, AK. Became project leader during a portion of work period and assisted in public relations.

**1978 - 1980. Microbiologist - lab analyst, Appalachian Water and Sewage Development Association, Logan, WV.** The West Virginia affiliate of the National Demonstration Water Project with supplemental funding by Housing and Urban Development (HUD) and the Appalachian Regional Commission (ARC). Personal duties included determination of bacterial contamination; purity, use and health parameters for drinking water samples and wastewater effluents. Responsible for monthly reports of findings to WV Health Department, WVDNR and the U.S. EPA. Agency's purpose was to provide safe drinking water sources and methods of proper waste disposal to rural communities in southern West Virginia and eastern Kentucky.

**1978. Biological Consultant - Fisheries Biologist, NUS Corporation, Environmental Consultants, Pittsburgh, PA.** Work consisted of surveying and identification of impinged and entrained fishes at two American Electric power plant sites along the Ohio River. Impingement and entrainment assessment are authorized by section 316-B of the Clean Water Act. Assisted in experimental design, sampling techniques, reporting of various data, supervision of other employees and public relations for the project.

#### **CONSULTING:**

1986-1988. West Virginia University, Water Resources Research Institute. Reviewed research proposals for utility and scientific basis.

1982-1983. Graduate Research Assistant. U.S. Office of Surface Mining, Reclamation and Enforcement and U.S. Fish and Wildlife Service at University of Louisville, Louisville, KY. Research grant.

1982. University of Louisville Committee for Academic Excellence. Awarded grant for independent research.

1981. Office of Water Resource Technology, Commonwealth of Kentucky. Graduate Research Assistant.

1981. Radioassay of phytoplankton from the Bering Sea, Prudhoe Bay and Gulf of Alaska. Contracted by Dr. Rita H. Horner, University of Washington, Seattle, WA.

1981. Analysis of the effects of various compounds on pesticide decomposition. For American Cyanamid Corporation via Dr. R. M. Atlas, University of Louisville, Louisville, KY.

1977-1978. Gallipolis Locks and Dam Regional Impact Assessment. U.S. Army Corps of Engineers. Personal aspects consisted of collection and identification of macroinvertebrates from Mud Run, Mason County, WV.

1977. Gallipolis Locks and Dam Regional Impact Assessment. U.S. Army Corps of Engineers. Pre-disturbance environmental survey of Flatfoot Creek, Mason County, WV.

1977. Larval fishes of the Ohio River. A survey for American Electric Power Corporation. Provided sorting and identification of larval fishes.

**TEACHING EXPERIENCE:** University of Charleston  
Charleston, West Virginia  
Adjunct Professor, 1985 - 1987  
Environmental Studies - 703 graduate course

University of Louisville  
Louisville, KY  
Graduate Teaching Assistant, 1980-1983  
Ecology and General Biology

Marshall University  
Huntington, WV  
Graduate Teaching Assistant, 1977-1978  
General Biology, Limnology, and Parasitology

**CONTINUING EDUCATION:**

Association of State and Interstate Water Pollution Control Administrators. Groundwater Issues. San Diego, CA - November 1987

The State's Conference on the Wetland Protection. Environmental Law Institute. Boston, MA -September 1988

West Virginia Conference on the Environment. Charleston, WV

- Solid Waste Disposal Workshop 1988

- Risk Assessment and Management Workshop 1989

- Comparative Risk Workshop 1993

Environmental Epidemiology and Risk Assessment.  
University of Pittsburgh, Pittsburgh, PA - April 1989

Risk Assessment and Decision-Making. USEPA Workshop, Charleston, WV - October 1989

Negotiating Public Policy Disputes. Environmental Dispute Resolution. The Conservation Foundation, Washington, DC - January 1990

**MEMBERSHIPS:** (Past )

Kanawha/Putnam Local Emergency Planning Committee Kanawha Valley Emergency Preparedness Council  
WV Conference on the Environment, Chairman, Steering Committee WV Solid Waste Task Force (DNR) WV  
Ground Task Force (WRB) The Nature Conservancy WV Environment Institute, Board of Directors Institute for  
Cooperation in Environmental Management (ICEM) , Board of Directors; Society for Risk Analysis (SRA)  
National Association of Environmental Professionals (NAEP) Chemical Industry Training in Occupational  
Safety and Health (ChemTOSH) Consortium, Board of Directors Mana Meal, Inc. The Ohio River Sanitation  
Commission (ORSANCO); (Present memberships): Blessed Sacrament Roman Catholic Church, Hillpoint  
Homeowners Association.

PROFESSIONAL PAPERS GIVEN, VOLUNTEER ACTIVITIES, INSTRUMENTATION FAMILIARITY,  
FOREIGN LANGUAGE, CERTIFICATIONS, and GRADUATE RECORD information are available upon  
request.

REFERENCES: Available upon request.

## PUBLICATIONS

- Hill, P.L., Jr., D.C. Tarter, W.D. Watkins and W.S. Nance. 1977. A new state record in the genus *Pycnopsyche* in West Virginia (Insecta: Trichoptera). *Proc. West Va. Acad. Sci.* 49(1): 24-25.
- Tarter, D.C., P.L. Hill, W.D. Watkins (Marshall U.) and D.R. Etnier (U. Tenn.) . 1977. **Habitat notes** with larval and pupal descriptions of the fislfly, *Neohermes concolor* (Davis) *Ent. News*.
- Hill, P.L., Jr., D.C. Tarter. 1979. Caddisflies of the Cranberry Glades in West Virginia (Insecta: Trichoptera). *Proc. W.Va. Acad. Sci.* 50(1): 24.
- Hill, P.L., Jr., D.C. Tarter, M.B. Rousch and W.L. Cremeans. 1978. A checklist and distributional notes on the caddisfly family Phryganeidae of West Virginia (Insecta: Trichoptera). *Proc. W.Va. Acad. Sci.* 50 (1) : 24.
- Hill, P.L., Jr., and D.C. Tarter. 1978. A taxonomic and distributional study of the adult caddisflies of the family Limnephilidae of West Virginia. *Ent. News.* 89(9 & 10): 214-216.
- Mitsch, W.J., R.W. Bosserman, P.L. Hill, J.R. Taylor and F.L. Smith. 1981. Models of wetlands amid surface coal mining regions of western Kentucky in *Energy and Ecological Modelling* (W.J. Mitsch, R.W. Bosserman and J. Klopatek, eds.) Elsevier Pub., Amsterdam, The Netherlands.
- Bosserman, R.W., W.J. Mitsch, P.L. Hill, F.L. Smith and J.R. Taylor. 1981. Modeling and management of wetlands in the western coalfields of Kentucky in *Progress in Wetlands Utilization and Management. Coordinating Council on the Restoration of the Kissimmee River Valley and the Taylor Creek-Nibbin Slough Basin*, (P. Mcaffrey, R. Beemer and S.E. Gatewood, eds.) Tallahassee, Fla.
- Tarter, D.C. and P.L. Hill, Jr. 1980. Adult limnephilid records in West Virginia (Trichoptera: Limnephilidae). *Ent. News* 91(5): 170-72.
- Hill, P.L. and J.R. Taylor. 1982. Ecosystem dynamics and the impact of highway construction on Green Bottom Swamp, Cabell County, West Virginia. *Proc. Wetlands Symposium in the Unglaciaded Appalachian Region.* West Virginia University Office of Publications, Morgantown, WV.
- Mitsch, W.J., R.W. Bosserman, P.L. Hill, Jr., and J.R. Taylor. 1982. Classification and management of wetlands in the western Kentucky coalfield. *First Ann. Rept. Kentucky Water Resources Institute, Proj. A-088-KY.* Lexington, Ky. 78p.
- Mitsch, W.J., K.B. Benson, P.L. Hill, Jr., and J.R. Taylor. 1983. Atlas of wetlands in the principal coal mining region of western Kentucky. U.S. Fish and Wildlife Serv. and Office of Surface Mining, Reclamation and Enforcement, Dept. of the Interior. Washington, D.C. FWS/OBS-82/72 119p.
- Haag, K. and P.L. Hill, Jr. 1982. Additions to the distributional list of Kentucky Trichoptera: Big Sandy River, Pond Creek and Scenic Lake. University of Louisville contribution No. 203. *Kentucky Acad. Sci.*
- Taylor, J.R., P.L. Hill, Jr., K.B. Benson and W.J. Mitsch. 1982. Ecosystem analysis of selected wetlands in the western Kentucky coalfield. *Proc. of the Wetlands Symposium in the Unglaciaded Appalachian Region.* West Virginia Univ. Publications, Morgantown, Wv.



Taylor, J.R., P.L. Hill, Jr., K.B. Benson and W.J. Mitsch. 1982. Structure and function of forested wetlands in the western Kentucky coalfield. Thirty-third Ann. Meeting of American Inst. of Biol. Sci., Penn. State Univ, (abstract only). Bull. Ecol. Soc. of Amer. 63(2): 207.

Hill, P.L., Jr. 1983. Wetland - Stream ecosystems of the western Kentucky coalfield: Environmental disturbance and the shaping of aquatic community structure. Doctoral Dissertation, Univ. of Louisville Library, Louisville, KY. 290p.

Mitsch, W.J., J.R. Taylor, K.B. Benson and P.L. Hill, Jr. 1985. Wetlands and coal surface mining in western Kentucky; A regional impact assessment. Wetlands, Vol. 1.

Bosserman, R.W. and P.L. Hill, Jr. 1985. Community ecology of three wetlands ecosystems impacted by acid mine drainage. Conference on Wetlands and Water Management on Mine Lands, Proceeding, R.P. Brooks and D.E. Samuel Eds., The Pennsylvania State University, Univ. Park, Pa. 287-303p.

Mitsch, W.J., M.A. Cardamone, J.R. Taylor and P.L. Hill, Jr. 1985. Wetlands and water quality management in the eastern interior coal basin. Conference on Wetlands and Water Management on Mined Lands, Proceedings, R.P. Brooks and D.E. Samuel Eds., The Pennsylvania State University, University Park, Pa. 121-137p.

Hill, P.L. Jr. and D.H. Treacy. 1989. Wetlands Protection through the 401 certification Program in West Virginia. National Wetlands Newsletter Vol. 11 No. 1 Environmental Law Institute, Wash, DC.

Bissett, L.L. and P.L. Hill, Jr. 1989. Discharge Reduction Scorecard - Baseline Report. National Institute for Chemical Studies Publ. 72p.

Hill, P.L. Jr. and R.R. Ollis. 1990. Discharge Reduction Scorecard - Pollution Reduction and Prevention in the Kanawha Valley Chemical Industry. National Institute for Chemical Studies Publ. 86p.

Hill, P.L. Jr., J.R. Taylor and R.R. Ollis. 1991. West Virginia Discharge Reduction Scorecard - Pollution Reduction and Prevention in West Virginia Industry. National Institute for Chemical Studies Publ. 187p.

Hill, P.L. Jr. and J.R. Taylor. 1993. West Virginia Scorecard - Pollution Reduction and Prevention in West Virginia Industry. National Institute for Chemical Studies Publ. 196p.

Hill, P.L. et. al. 1989. Citizen's Guide for Environmental Issues - A Handbook for Cultivating Dialogue. National Institute for Chemical Studies Publ. 82p. Second edition 1990. USEPA, Wash. DC, with permission.

Hill, P.L. Jr., D. Gutenson and S.L. Santos. 1992. Risk Communication in the Kanawha Valley: Implications for Risk Reduction. National Institute for Chemical Studies, USEPA and Columbia University Center for Risk Communication. Society for Risk Analysis Annual Conference, San Diego, Ca. (abstract only).

Santos, S.L., P.L. Hill Jr., and D. Gutenson. 1992. The Kanawha Valley Risk Communication Research Project. Columbia Center for Risk Communication, National Institute for Chemical Studies and USEPA. Society for Risk Analysis-Annual Conference, San Diego, Ca (abstract only).

Santos, S.L., P.L. Hill, Jr., and D. Gutenson. 1993. The Kanawha Valley Risk Communication Research Project: Lessons Learned. Focus Group, Malden, Ma and National Institute for Chemical Studies, Charleston, WV and US Environmental Protection Agency, Wash. DC., Society for Risk Analysis -Annual Conference, Savannah, Ga. (abstract only).

Arendt, S., and P.L. Hill, Jr. 1995. Technical Lessons Learned from Recent Regional Assessment Studies. Center for Chemical Process Safety, International Conference, New Orleans, LA. Proceedings.

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RESPONSES BY PAUL HILL TO ADDITIONAL QUESTION FROM SENATOR LIEBERMAN

*Introduction and question:* Since the Chemical Safety and Hazard Investigation Board was created, it took several years to secure funding to ensure a quick and effective startup of the Board. Some argue that the Board's functions could be incorporated into OSHA and EPA. With your experience on the Board since 1994, you no doubt have a clear picture of the historical debate over the role of the Board and ideas of where it could be most effective in protecting the public.

What is your view of appropriate role of the Chemical Safety and Hazard Investigation Board in terms of coordinating with other agencies?

Response. The CSB coordinates its work during investigations with over Federal, State and local agencies to the maximum extent possible. We share factual information and, unless an interviewee objects, conduct single interviews with all interested parties present. Our deliberations on causes and recommendations are not shared,

however. After the Board Members have approved the final report on a given accident, the full document is made available to all parties.

While interagency coordination is expected and possible, the CSB investigations and associated reports are work products that cannot be expected from others. The CSB has been recognized, including by Congress itself in the Clean Air Act (as amended) legislative history as the only agency that can do the work Congress envisioned when it wrote the legislation. Neither EPA nor OSHA are able to conduct independent accident investigations akin to the CSB's. There are a couple of reasons for this fact.

- First, as the Senate acknowledged, it would be unlikely that these agencies would be forthcoming when, as a result of an investigation their own programs and rules could be found at fault. For exactly the same reasons, Congress removed the NTSB from DOT to ensure there would be completely independent assessment of the safety systems governing transportation. Congress further segregated both the NTSB and the CSB from executive branch control by making them independent agencies answerable to the Congress directly. This is in keeping with our checks and balances of democracy.

- Second, EPA and OSHA (as well as DOT and FAA), as regulatory agencies, have a unique role incompatible, in many respects, with accident investigation as performed by the CSB. Regulations which implement EPA and OSHA's statutory authorities are traditionally prescriptive, requiring regulated entities to adhere to only those standards included in existing rules. In turn, the regulatory agencies evaluate those entities' compliance with the specific safety requirements and cite violations of statute or regulation; however, in the absence of statutory authority to do so, system failures not covered by regulatory provisions are not cited even when noted. In contrast, there are no restrictions on what the CSB may examine in the course of its investigations. The investigations are aimed at determining compliance with or violation of regulations, but at discovery of all safety system failures, including those which may not have been recognized or could not be addressed by the regulatory agencies in the past. The CSB's goal is to improve the safety system by looking beyond what may or may not be in place today.

- Third, there is a basic incompatibility between regulatory enforcement and scientific investigation for the purpose of obtaining new knowledge about safety system failures. New knowledge is predicated upon a thorough understanding of the chemical process and relies upon a non-threatening interactive exchange of information between the company and the investigative body. EPA and OSHA, because of their statutory direction to take enforcement action if violations are uncovered, do not offer any incentive for companies to provide voluntary information, assistance, or cooperation in any way. (A 1995 report by GAO reported that regulatory agencies could do the job now being done by the CSB only if the companies cooperated.) By late 1997 when the Congress funded the CSB, it was common knowledge among major chemical industries that participating in EPA-OSHA accident investigations by volunteering information in excess of what was required under current law would result in potentially more penalties. As the result of this lack of industry cooperation—the investigations and the reports issued by the EPA and OSHA were called “superficial”, “uninformative” and deemed to be of little value to anyone. They were denounced by every major labor union, the environmental community and major industry groups alike.

In contrast to problems faced by EPA and OSHA, the CSB has found industries to be much more cooperative during the course of CSB investigations and eager to learn, through CSB's recommendations, how to improve safety performance. This is due in no small part to a provision in the legislation barring use of CSB's findings in private legal proceedings, directions to the CSB that it is not to affix blame, and the fact that the CSB is not a regulatory body and, therefore, does not impose penalties or perform any other enforcement function. Beyond making recommendations to industry, the CSB can identify shortcomings in regulatory agencies' programs and make recommendations to them as well.

The CSB must serve an overarching leadership role in accident investigation. Regulatory agencies still leave their defined role: measuring compliance, identifying violations and assessing penalties. The CSB will continue to coordinate its investigations with regulatory agencies to ensure each agency is allowed to efficiently and effectively perform its statutory function. The CSB will continue to share with enforcement agencies the factual information gathered at accident sites. It has signed interagency agreements with OSHA and EPA that state (1) this is its policy, (2) there will be a coordinated Federal approach, led by the CSB, to gather facts, share information and communicate with the media, and (3) after the facts have been gathered the CSB will conduct an independent analysis, broader in scope than inves-

tigations conducted by to regulatory authorities due to the CSB's authorities, to determine safer system failures.

We have learned over the past 21 months of operation that only through the CSB's independent, broad scope approach to the conduct of investigations will it be possible to uncover the causes of and means of preventing accidents and to make information deemed credible available to all who can benefit from it.

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STATEMENT OF RICHARD A. MESERVE, NOMINATED BY THE PRESIDENT TO BE A  
MEMBER OF THE NUCLEAR REGULATORY COMMISSION

Mr. Chairman, and members of the Committee, I appreciate the opportunity to appear today at this hearing on my nomination to be a member of the United States Nuclear Regulatory Commission (NRC). As I believe you know, the President has stated his intention, if I am confirmed, to designate me as the Chairman of the Commission. Let me say a few words about myself and then offer my thoughts as I contemplate the possibility of joining the NRC.

I am a partner in the law firm of Covington & Burling, in Washington, D.C., which I joined as an associate in 1981. I turned to the practice of law after completing a Ph.D. in applied physics, and I have used my scientific training in my legal work. Over most of my years in private practice, this has included work on nuclear-related issues. As an attorney who has worked with the Agency, I have a familiarity both with the procedures of the NRC and with the substance of its work. I have also served on a number of committees of the National Academy of Sciences (NAS) and the National Academy of Engineering that have focused on nuclear issues. For example, I recently served as chairman of a committee that examined the protection of nuclear weapons materials in Russia and previously, in the aftermath of Chernobyl accident, I chaired an NAS committee that examined safety issues associated with the DOE reactors. I thus also have experience arising from my pro bono activities that bear on the NRC's mission. I believe that my educational background and my professional experience will reinforce each other in ways that should be helpful in the conduct of the Commission's work. Rather than take further time here today to discuss my professional career in greater detail, however, I have submitted my curriculum vitae as an attachment to my written statement.

Let me turn now to my views as I contemplate the possibility of joining the NRC. As I am sure this Committee is fully aware, we are in the midst of a significant restructuring of the utility industry. In a growing number of States the competitive market determines the price for electricity and thus profitability for all forms of electricity generation is dependent on achieving economically efficient operations. This has important implications for the NRC's work.

First, and most important, it reinforces the need for the NRC to fulfill its obligation to demand safe operations by licensees. The NRC must assure that the pressures to reduce costs do not become incentives to cut corners on safety. I understand that the principal statutory responsibility of the Commission is the protection of the public's health and safety and of the environment. The NRC must ensure that its licensees meet the agency's safety and environmental requirements.

Second, in a time of sensitivity to costs, the NRC has a particular obligation to regulate efficiently to regulate in a fashion that imposes the minimum degree of burden consistent with getting the job done. This implies a judicious approach both to new regulatory initiatives—making sure that the benefits outweigh the costs—and a willingness to cast a cold, appraising eye on existing policies and programs. The fact that a given program may have made excellent sense in 1979 or even 1989 does not mean that it still makes sense in 1999. Moreover, managerial oversight is necessary to make sure that the policy decisions made in the agency's conference rooms are translated into practice at the operational level so that the benefits of informed policy are actually achieved.

Third, it is incumbent on the NRC to reach decisions in appropriate ways. Decisions must be fair, and be perceived to be fair; they must be appropriate for the particular task at hand; and they must be efficient and timely. For example, if a process is so needlessly time-consuming and inefficient that delay itself determines the outcome, then the goal of fairness is not being met and the Commission has failed in its obligations. Here again, we have to be prepared to adjust processes to changing needs. At the same time, however, there should be no slighting the significant role that Congress gave to the public in NRC processes. The NRC staff and the regulated industry benefit from public participation because the public may often illuminate issues in ways that would otherwise escape scrutiny. Moreover, the American public will not accept the legitimacy of decisions that derive from processes from which it has been excluded. Thus, as the NRC carries out its regulatory

activities, it must be conscious of the need to include the affected public in ways that are meaningful and that contribute to sound and efficient decisionmaking.

Finally, at a time when the Commission has a variety of important matters to which it must attend, I am mindful of the fact that Congress created the NRC as a multi-member Commission. Each member of the Commission should gain the benefit of the other members' expertise and ideas, thereby allowing more informed and thoughtful decisions than any one Commissioner could provide alone. I understand that this places a special obligation on the chairman: in addition to taking a leadership role, the chairman has a special responsibility to listen to his or her colleagues and to work for consensus and collegiality.

I believe that the NRC has made progress in all these areas in recent times and I believe that there are grounds for considerable optimism about the future. I see an agency well aware of its duties to protect the public health and safety under the law. I see an agency that has worked to improve its communications with members of the public, the regulated industry, and with the Congress. I see an agency that is taking advantage of improvements in analytical tools and information to focus on those aspects of industry operations that are most risk significant. In short, I see an agency that is on the right track. If confirmed, I look forward to working with my colleagues on the Commission to build on the achievements of the recent past.

I would be pleased to answer any questions you may have for me. Thank you.

# UNITED STATES SENATE

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

## INFORMATION

### REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

<b>Name of Nominee:</b>	<u>Richard A. Meserve</u>
<b>Business Address:</b>	<u>Covington &amp; Burling</u> <u>1201 Pennsylvania Ave., N.W. P.O. Box 7566 Washington, D.C.</u> <u>20044</u>
<b>Business Phone:</b>	<u>(202 ) 662-5304</u>
<b>Home Address:</b>	<u>708 Berry Street</u> <u>Falls Church, VA 22042</u>
<b>Home Phone:</b>	<u>( 703 ) 533-0775</u>

**UNITED STATES SENATE**  
**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**  
**STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

**Name:** Meserve Richard Andrew  
(Last) (First) (Middle)

**Position to which nominated:** Commissioner, Nuclear Regulatory Commission

**Date of Nomination:** August 5, 1999

**Date of birth:** 20 11 44 **Place of birth:** Medford, MA  
(Day) (Month) (Year)

**Marital status:** Married **Full name of spouse:** Martha Richards Meserve

**Name and ages of children:** Amy Lynne Meserve, 32  
Lauren Anne Meserve, 28  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Tufts University</u>	<u>1962-66</u>	<u>B.A.</u>	<u>1966</u>
	<u>Stanford University</u>	<u>1966-72</u>	<u>Ph.D.</u>	<u>1976</u>
	<u>Harvard Law School</u>	<u>1972-75</u>	<u>J.D.</u>	<u>1975</u>
	_____	_____	_____	_____

**Employment record:**

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Research Associate (physics research), Stanford University, Stanford, CA 1967-72  
Summer Associate (legal work), Fish & Richardson, Boston, MA 1973  
Summer Associate (legal work), Ropes & Gray, Boston, MA 1974  
Law Clerk, Judge Benjamin Kaplan, Massachusetts Supreme Judicial Court,  
Boston, MA 1975-76

**Employment record—continued**

Law Clerk, Justice Harry A. Blackmun, U.S. Supreme Court, Washington, D.C. 1976-77

Senior Policy Analyst & Legal Counsel, Office of Science & Technology Policy,  
Executive Office of the President, Washington, D.C., 1977-81

Associate & Partner, Covington & Burling, Washington, D.C., 1981-present

**Honors and awards:**

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Fellow, American Academy of Arts & Sciences

Fellow, American Association for the Advancement of Science

Fellow, The American Physical Society

**Memberships:**

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>Carnegie Institution of Washington</u>	<u>Member, Board of Trustees</u>	<u>1992-present</u>
<u>American Academy of Arts &amp; Sciences</u>	<u>Member, Council &amp; Executive Committee</u>	<u>1997-present</u>
<u>Tufts University</u>	<u>Member, Board of Overseers in Arts &amp; Sciences</u>	<u>1994-present</u>
<u>Tech Corps</u>	<u>Member, Board of Directors</u>	<u>1995-present</u>
<u>National Academy of Sciences</u>	<u>Vice Chairman, Board on Energy &amp; Environmental Systems</u>	<u>1993-present</u>

**Qualifications:**

State fully your qualifications to serve in the position to which you have been named.



**Qualifications—continued**

I am generally familiar with the policies and practices of the Nuclear Regulatory Commission as a result of having represented nuclear licensees for approximately 15 years. I have extensive policy experience on nuclear-related issues as a result of a variety of projects that I have undertaken on behalf of the National Academy of Sciences. Finally, I have an educational background in both law and science, which should facilitate my work as a commissioner.

**Future employment relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I intend to resign from my partnership upon entering public service.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no firm plans at this time.

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

Not applicable

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

I served as Senior Policy Analyst and Legal Counsel in the Office of Science and Technology Policy from August 1977 through approximately March 1981. President Reagan had not yet appointed a science adviser so minimal activities were being undertaken by the office in early 1981. I resigned in order to commence private practice.

**Financial  
Statement:**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

Upon my resignation from the Firm, I will be reimbursed the funds in my capital account and my share of the Firm's earnings for the current fiscal year. In addition, I will receive a separation payment which will be determined by the Firm's Management Committee. The separation payment may be paid in installments over any period up to ten years, without interest, but typically is paid quarterly over three years.

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Other than arrangements to be made with Covington & Burling (*supra*),

I have no agreements or other business arrangements that would be affected by my appointment to the Commission.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

See Attachment

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

I have had dealings with the Federal Government on behalf of the National Academy of Sciences and various clients. These include: Kerr-McGee Corp.; Mallinckrodt, Inc.; Sempra Energy (San Diego Gas & Electric Co.); Cartier, Inc.; Montblanc, Inc.; National Academy of Sciences; and El Paso Natural Gas.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I will be guided by advice from the NRC General Counsel, but expect to recuse myself on matters directly involving the entities listed above.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I intend to comply fully with any such laws and regulations by recusal or other appropriate means.

Attachment to Page 5, Question 2.

I serve as a trustee for certain trusts that own shares in companies that are or may be NRC licensees. These include: Exxon Corporation; Medtronic, Inc.; Merck; Minnesota Mining and Manufacturing, Inc.; General Electric; BP Amoco PLC; and Schlumberger, Ltd. Various clients with whom I have personally worked have NRC licenses, including ASARCO, Inc.; Cartier, Inc.; SmithKline Beecham; Mallinckrodt, Inc.; Montblanc, Inc.; U.S. Enrichment Corp.; San Diego Gas & Electric Co.; Solutia, Inc.; and Kerr-McGee Corp. In addition, I have served as an adviser to MIT and the Carnegie Institution of Washington, which have NRC licenses, and to the National Academy of Sciences, which has grants from the NRC.

**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

I have not provided services to a political party or election  
committee or made financial contributions in excess of \$1000 during the  
last 10 years. I am registered as a Democrat.

**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

See Attachment

In addition, I have served on various committees of the National  
Academy of Sciences and the Secretary of Energy Advisory Board that  
have issued reports on various subjects.

**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

Attachment to Page 6. "Published Writings"

R.A. Meserve, "A Tribute to Justice Harry A. Blackmun," 97 Dickinson Law Review 601 (1993).

R.A. Meserve, "A Tribute to Justice Harry A. Blackmun," 71 N.D. Law Review 21 (1995) (reprint of Dickinson Law Review article).

R.A. Meserve & Lars Noah, "Science in the Courts: A Defense Perspective on *Daubert v. Merrell Dow Pharmaceuticals, Inc.*," Daily Journal Report 25 (Supplement to the Los Angeles Daily Journal) (Aug. 6, 1993).

R.A. Meserve, "The Two Cultures," Issues in Science and Technology 88 (Spring 1996) (book review).

R.A. Meserve, "Science in the Courts," IEEE Spectrum 10 (June 1998) (book review).

## Additional matters—continued

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2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

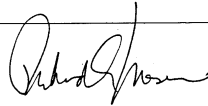
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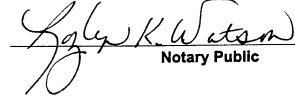
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## AFFIDAVIT

Richard A. Meserve ) ss, being duly sworn, hereby states that he/~~she~~ has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/~~her~~ knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 19<sup>th</sup> day of August, 1999.

  
Notary Public

ROZLYN K. WATSON  
Notary Public  
District of Columbia  
My Commission Expires: 1/31/2001

## RICHARD A. MESERVE

*Employment Experience*

Partner, Covington & Burling, 1981-present (associate through 1984):

Legal practice involving issues with substantial technical content, including environmental and toxic-tort litigation, nuclear licensing, and counseling of scientific societies.

Legal Counsel, Office of Science and Technology Policy, Executive Office of the President, 1977-81:

Responsibility for policies related to the health of science, industrial innovation, energy, and space.

Law Clerk, Justice Harry A. Blackmun, U.S. Supreme Court, 1976-77.

Law Clerk, Judge Benjamin Kaplan, Massachusetts Supreme Judicial Court, 1975-76.

*Education*

Harvard Law School: J.D., magna cum laude (1975).  
 Harvard Law Review, editor and senior editor  
 Ames Moot Court Competition (member of winning team)  
 Stanford University: Ph.D., Department of Applied Physics (1976).  
 Tufts University: B.A., magna cum laude (1966).  
 Phi Beta Kappa  
 Sigma Xi

*Policy Studies*

Chairman, National Academy of Sciences, Committee on Balancing Scientific Openness and National Security (1999-present)  
 Chairman, National Academy of Sciences, Committee on Protection, Control, and Accountability of Nuclear Materials in Russia (1998-1999)  
 Chairman, National Academy of Sciences, Committee on the Cooperative Threat Reduction Program (1995-1997)  
 Chairman, National Academy of Sciences, Committee on Declassification of DOE Information (1994-95)  
 Chairman, National Academy of Sciences, Committee on Fuel Economy of Automobiles and Light Trucks (1991-92)  
 Chairman, National Academy of Sciences, Committee to Provide Interim Oversight of the DOE Nuclear Weapons Complex (1988-89)  
 Chairman, National Academy of Sciences, Committee to Assess Technical and Safety Issues at DOE Reactors (1986-88)  
 Member, National Academy of Sciences, Panel on Scientific Responsibility and the Conduct of Research (1989-92)  
 Member, National Academy of Sciences, Panel on the Impact of National Security Controls on International Technology Transfer (1984-86)  
 Member, National Academy of Sciences, Panel on Scientific Communication and National Security (1981-82)  
 Member, Carnegie Commission on Science, Technology, and Government, Task Force on Judicial and Regulatory Decision Making (1992-93)  
 Member, Carnegie Commission on Science, Technology, and Government, Task Force on Nongovernmental Organizations in Science and Technology (1991-92)

*Other Professional Activities*

Member, Advisory Committee, Court Appointed Scientific Experts (a demonstration project of the American Association for the Advancement of Science) (1999-present)  
 Vice-Chairman, National Academy of Sciences, Board on Energy and Environmental Systems (1993-present)  
 Member, National Academy of Sciences, Commission on Geosciences, Environment and Resources (1997-present)  
 Member, Board of Directors, Carnegie Institution of Washington (1992-present)  
 Member, Secretary of Energy Advisory Board; Chairman, Openness Task Force (1996-present); Chairman, Task Force on Fusion Energy (1999-present)  
 Member, Board of Directors, Tech Corps (1995-present)  
 Member, Council and Executive Committee, American Academy of Arts and Sciences (1997-present)  
 Faculty Member, University of Virginia School of Law, Graduate Program for Judges (1994, 1997)  
 Chair, American Bar Association, Science and Technology Section, Life and Physical Sciences Division, Physical Sciences (1991-present)  
 Member, Board of Overseers for the Arts and Sciences, Tufts University (1994-present)  
 Chairman, Advisory Council of the Princeton Plasma Physics Laboratory (1989-1999)  
 Member, Advisory Board of the MIT Center for Technology, Policy and Industrial Development (1988-present)  
 Chairman, AAAS-ABA National Conference of Lawyers and Scientists (1988-94)  
 Member, The American Physical Society, Panel on Public Affairs (1988-90)  
 Member, Advisory Board, MIT Lincoln Laboratory (1994-1999)

*Honors*

Fellow, American Academy of Arts and Sciences (1994)  
 Fellow, American Association for the Advancement of Science (1989)  
 Fellow, The American Physical Society (1989)



## RESPONSES OF RICHARD MESERVE TO QUESTIONS FROM SENATOR LIEBERMAN

*Question 1.* In March of this year, the GAO issued a report that I requested with Senator Biden, assessing the NRC's efforts to devise a strategy to advance a risk-informed approach to regulation. The report found that some utilities do not have current and accurate design information for their plants that is a prerequisite for a risk-informed safety strategy. I have long advocated for better use and enforcement of design specific safety initiatives.

What steps do you envision the NRC taking to verify that utilities use plant design as the basis for their operating and safety initiatives?

Response. I understand that the NRC has identified the need for additional guidance to licensees both to provide a clear definition of what constitutes design information that must be maintained by licensees as the basis for operations and to clarify how that information should be updated to reflect changes to the facility. That guidance needs to be completed in a timely manner. As the Commission implements its new reactor oversight process, it should take steps to focus licensee and NRC resources on significant plant issues, including, where appropriate, maintenance of plant design information.

What other major problems with respect to safety do you see that remain?

Response. Various indicators show that the safety performance of the nuclear industry has improved in recent years. But, as I indicated in my testimony before the Committee, the restructuring of the industry has important implications for the NRC's work. It is necessary for the NRC to have effective mechanisms in place so as to assure that the pressures to reduce costs do not become incentives to cut corners on safety.

*Question 2.* The NRC recently issued a report finding that a former senior engineer at the Millstone nuclear plant violated Federal safety regulations and willfully lied to the NRC about it. However, the NRC cannot fine the company because the 5 year statute of limitation expired. While NRC maintained that the report was delayed due to complexities of the issues, the public remains concerned that the NRC did not conduct a timely investigation, thereby hindering enforcement of safety.

What will the NRC do to improve its track record with investigating and enforcing serious safety violations?

Response. The NRC should make sure that it focuses on potentially significant violations or allegations of wrongdoing and gives their resolution priority in the investigative and enforcement process. In the example you mention, simply tracking the application of the statute of limitations to the violations under investigation would help investigators and enforcement staff to keep sight of the need for resolution of the investigation and would allow them to take steps to preserve the agency's enforcement options.

*Question 3.* Connecticut is currently in the process of auctioning off its nuclear generating assets, and Northeast Utilities recently announced that they don't expect to bid on the Millstone plants. The citizens of Connecticut have worked hard to correct management and safety problems at the plant over the years. I believe—unlike others, who have raised concerns that the NRC over regulates—that the NRC plays a critical role in maintaining public confidence that the plants are safe.

What role would the NRC play in overseeing the transition of ownership of the Millstone plants? How will NRC ensure that the mistakes of the past are not repeated?

Response. The NRC is required to approve transfers of ownership or control of plant licenses in accordance with Section 184 of the Atomic Energy Act of 1954, as amended. The NRC's regulations provide for an appropriate review of the technical and financial qualifications of a new owner or operator and also offer opportunities for public comment or hearing on proposed transfers. In light of the history of the Millstone plants, I believe that the NRC should seek to ensure that the plants, whether under existing or new management, sustain improvements in operations and in the work environment. I understand that both Millstone units are currently under enhanced monitoring through additional dedicated inspection resources and close NRC senior regional management oversight.

*Question 4.* Dr. Jackson took some major actions to make the NRC more responsive to problems raised by whistleblowers at nuclear plants. I believe that the NRC needs to continue to do more to keep improving safety, taking aggressive enforcement action where appropriate, and holding nuclear plant licensees accountable for correcting problems in a timely manner.

Do you have any plans for improving NRC's record protecting workers from suppression of concerns about plant performance and safety?

Response. I believe it is important for the NRC to intervene promptly if we identify concerns about a worker's ability to raise issues of plant performance and safety without fear of retribution. The NRC has identified the existence of a safety-conscious work environment as one of the central elements in its new process for assessment of reactor performance. This should remain a key element of the assessment process.

Do you think that legislative authority is needed to improve whistleblower protections?

Response. I understand that several years ago the NRC identified improvements which could be made to the protections for whistleblowers, including several changes to the provisions of Section 211 of the Energy Reorganization Act. This section provides for redress by the Department of Labor of retaliatory actions against employees for raising safety issues with their employers or the NRC. If confirmed, I will review this matter.

*Question 5.* As you are aware, the Price-Anderson act is scheduled to be reauthorized in 2002. Last year, the NRC submitted a statutorily mandated report to Congress that concluded that the Price-Anderson nuclear insurance statute has proved to be successful, and should be renewed for another 10 years with other modest, if any changes. I am interested in your views on the Act, and the role protecting the public from liability in the event that there is a nuclear accident.

Do you generally support the NRC's conclusions (in the report to Congress on the Price-Anderson nuclear insurance statute)? Do you agree with the NRC's report conclusion that Price-Anderson has assured that, in the unlikely event of an accident, the public will be promptly and equitably compensated for any resulting liabilities?

Response. I am familiar with the Price-Anderson Act and its purposes and functions, although I am not yet fully conversant in the NRC's report to Congress on the Act that was submitted last year. I, thus, cannot address the conclusions or recommendations in that report. I do understand that the Act has established a system to provide ample and prompt compensation for public liability claims arising from a nuclear incident.

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RESPONSES OF RICHARD MESERVE TO ADDITIONAL QUESTIONS FROM SENATOR THOMAS

*Question 1.* Recognizing the continuing fragile state of the domestic uranium recover industry, would you favor Commission policies that seek to limit dual regulation of such facilities?

a. In particular, would you support NRC's relinquishing jurisdiction over in-situ leach wellfields since these facilities are adequately regulated by the Environmental Protection Agency (EPA) and administered by the States?

b. Would you support NRC's using its Federal preemption authority under the Atomic Energy Act to move forward with the final disposal of uranium (11e2) by-product material?

Response. A regulatory agency must always be sensitive to the need to regulate in a manner that imposes the minimum degree of burden consistent with getting the job done. Where more than one regulatory agency is involved in the oversight of an industry, it is important for each agency to ensure that the requirements it imposes provide needed protection of the public's health and safety and the environment and, to the maximum extent possible, are not inconsistent with obligations imposed by other agencies.

I understand that the Commission has before it a series of decision documents laying out various options for addressing the specific questions you have raised, as well as others, relating to the uranium recovery industry. I am not sufficiently familiar with these issues to provide a specific response at this time as to my own views. If confirmed, however, I will study these issues carefully. I pledge to work with my fellow Commissioners to see that the Commission resolves these issues in a comprehensive manner in an effort to bring consistency, clarity and efficiency to the requirements governing the uranium recovery industry.

*Question 2.* Under the current fee system, NRC is required by the Omnibus Budget and Reconciliation Act to recover approximately 100 percent of its fees from licensees. This system requires licensees to pay for agency services they do not benefit from. These services include the following activities: international activities; agreement state oversight; fee exemption for nonprofit educational institution; licensing and inspection activities associated with other Federal agencies; cost not recovered due to an exemption of or small entities; regulatory support for agreement States; and others.

The lack of reasonable relationship between annual fees and services rendered by NRC is exacerbated as more States become Agreement States and more sites are decommissioned. This situation leaves fewer NRC licensees to bear an even greater share of the burden. The NRC needs to determine an equitable way of dealing with this scenario that is already playing out in the uranium recovery area.

Would you be willing to support an aggressive request to Congress to resolve the inequities caused by the current fee system?

Response. Although there can be inequities which result from the current requirement for the NRC to recover all of its budget authority through fees, the various NRC programs are important if the NRC is to fulfill its statutory obligations. As a result, resources to support them must be found. I have pledged to work with the Committee to find an appropriate solution to this problem.

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STATEMENT OF MAJOR GENERAL PHILLIP R. ANDERSON, NOMINATED BY THE  
PRESIDENT TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION

Mr. Chairman and Members of the Committee: I am honored to appear before you as the nominee for president and member of the Mississippi River Commission.

Mr. Chairman, I would like to make a brief statement about the Mississippi River Commission, the Mississippi River and Tributaries (MR&T) project, and my qualifications for the position for which I have been nominated.

The Mississippi River Commission, established by Act of Congress on June 28, 1879, consists of seven members, all of whom are appointed by the President of the United States subject to confirmation by the Senate. Three members are Corps of Engineers officers, one of whom serves as president; one member is from the National Oceanic and Atmospheric Administration; and three members are from the civilian sector, two of whom must be civil engineers.

From its inception in 1879, the Commission has been charged with the task of planning and implementing a program of flood damage reduction projects and navigation improvements on the Mississippi River. More recently, project purposes have been expanded to include environmental restoration. This task continues to be conducted in concert with the myriad of political institutions, individuals, and public entities which have major interests in seeing that the water resources needs and opportunities of the Mississippi Valley are evaluated, planned, designed, constructed, and maintained.

As established in 1879, the Commissioners were to serve as advisers in planning and implementing water resource projects and programs on the Mississippi River between the Head of Passes below New Orleans to its headwaters. Since 1928, the Commission has focused on the Mississippi River and Tributaries project, authorized by the Flood Control Act of May 15, 1928, to be implemented under oversight of the Commission. The WRIT project extends generally from the confluence of the Ohio River to the Head of Passes below New Orleans and covers portions of seven States. It receives water from all or portions of 31 States and part of two Canadian provinces, or roughly 41 percent of the contiguous United States. Effective planning, design, construction, and operation of the widespread and complex MR&T project have been assisted greatly by the Commission's active consultation with the public, particularly on its semiannual lower Mississippi River inspection trips, and by the high degree of professionalism that has been developed in its staff.

A major flood on the lower Mississippi River would have catastrophic effects on the inhabitants of the Mississippi Valley and the economy of the Nation were it not for the protection provided by the levees and other flood control works along the mainstem of the Mississippi and Atchafalaya Rivers. Many have noted that the comprehensive project on the lower river provided for passage of major floods in 1973, 1983, 1997, and other years without the extensive damage suffered in the upper river area during the 1993 and 1995 flood events.

In addition, the navigation features of the project help to maintain the river for shipping import and export commodities between inland ports and world markets.

Reorganization of the Corps of Engineers in April 1997 has placed the entire length of the Mississippi River within one Division of the Corps of Engineers. I serve as Commander of this Mississippi Valley Division of the Corps. Command of the Division office traditionally has also included duties as President of the Mississippi River Commission. The reorganization of the Corps now allows management of the Mississippi River as a single and unified system and enables the President and members of the Commission to more effectively serve as advisers to the Chief of Engineers as authorized in the 1879 legislation.

The Commission members have been active as advisers to the Corps on the Upper Mississippi River since the reorganization.

The Commission conducted inspection trips on the Upper Mississippi River in August 1997, 1998, and 1999, holding a series of public meetings in the St. Paul, Rock Island, and St. Louis Districts each year, in addition to the semiannual inspection trips and public meetings in the Memphis, Vicksburg, and New Orleans Districts.

In regards to my personal qualifications, I am a graduate of the Virginia Military Institute, Lexington, Virginia, where I was commissioned in 1970 into the Corps of Engineers. I hold Master's degrees in civil engineering from the University of Illinois in Champaign/Urbana and international relations from Salve Regina University in Newport, Rhode Island. I am also a graduate of the U.S. Army Command and General Staff College and the Naval War College. I am a licensed professional engineer in the State of Virginia.

Since July 1997, I have served as Commander of the Mississippi Valley Division and also as president designee of the Mississippi River Commission. In this position, I have led and managed the Corps' water resources program in the Mississippi River Valley. The boundary of the Mississippi Valley Division extends from Canada to the Gulf of Mexico, includes portions of 12 States, and encompasses 370,000 square miles. The program and activities overseen by the Mississippi Valley Division and Mississippi River Commission are conducted by district offices located in St. Paul, Rock Island, St. Louis, Memphis, Vicksburg, and New Orleans.

I have served over 28 years in the uniformed military service as an Army Engineer. I have commanded at all levels from platoon through Division. I served as Liaison Officer and Assistant Resident Engineer, Saudi Arabia District, and also as a project engineer in the Louisville District. I was the Executive Officer for the Chief of Engineers at the Headquarters office of the Army Corps of Engineers in Washington, D.C., and Land and Naval Facilities Program Manager, Supreme Headquarters, Allied Powers Europe.

While assigned to the U.S. Army Engineer School at Fort Leonard Wood, I served as Director of Training, Chief of Staff, and Deputy Commanding General. Before my assignment to the Mississippi Valley Division, I served as the Director of Military Programs at the U.S. Army Corps of Engineers Headquarters.

If confirmed to the position, Mr. Chairman, I would look forward to playing a key role in the continual improvement of the Mississippi River system and the MR&T project by applying the most modern practices in water resources engineering. I would also look forward to being the president of a Commission that focuses not only on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway, but also incorporates programs and projects for environmental protection and restoration.

Mr. Chairman, for your information, I have attached a complete biography on myself and a current list of members of the Mississippi River Commission.

This completes my prepared statement, and I would be pleased to respond to any questions.

# UNITED STATES SENATE

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

### INFORMATION

#### REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

<b>Name of Nominee:</b>	PHILLIP RATLIFF ANDERSON
<b>Business Address:</b>	U.S. ARMY ENGINEER DIVISION, MISSISSIPPI VALLEY P.O. BOX 80 VICKSBURG, MS 39181-0080
<b>Business Phone:</b>	( 601 ) 634-5750
<b>Home Address:</b>	1200 WARRENTON ROAD VICKSBURG, MS 39180
<b>Home Phone:</b>	( 601 ) 638-9060

**UNITED STATES SENATE**  
**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**  
**STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Anderson Phillip Ratliff  
(Last) (First) (Middle)

Position to which nominated: President and Member, Mississippi River Commission

Date of Nomination: \_\_\_\_\_

Date of birth: 11 Sep 48 Place of birth: Coronado, CA  
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Elizabeth Allen Bartley Anderson

Name and ages of children: Sarah Grice Anderson 26  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Education:**

Institution	Dates attended	Degrees received	Dates of degrees
<u>Virginia Military Institute</u>	<u>1966-1970</u>	<u>BS</u>	<u>May 1970</u>
<u>University of Illinois</u>	<u>1977-1978</u>	<u>MS</u>	<u>Jan 1979</u>
<u>Salve Regina University</u>	<u>1988-1989</u>	<u>MA</u>	<u>May 1989</u>
_____	_____	_____	_____

**Employment record:**

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

<u>06/70-10/70</u>	<u>Engineer trainee</u>	<u>Fairfax County, VA</u>	
<u>11/70-05/75</u>	<u>PLT, Staff, CO CDR</u>	<u>EN BN Combat</u>	<u>Ft. Bragg, NC</u>
<u>05/75-07/76</u>	<u>Eng Staff Officer</u>	<u>Eng Dist, Saudi Arabia</u>	<u>Riyadh, Saudi Arabia</u>
<u>07/76-01/79</u>	<u>Asst Resident Eng</u>	<u>USA Eng Div, Middle East</u>	<u>Riyadh, Saudi Arabia</u>
<u>01/79-02/80</u>	<u>Civil Engineer</u>	<u>Eng District, Louisville</u>	<u>Louisville, KY</u>
<u>02/80-07/82</u>	<u>Construction Engineer</u>	<u>Eng District, Louisville</u>	<u>Louisville, KY</u>
<u>07/82-03/83</u>	<u>Battalion S3</u>	<u>EN BN HHC Airborne Div</u>	<u>Ft. Bragg, NC</u>

**Employment record—continued**

03/83-06/83	Asst Division Eng	EN BN HHC Airborne Div	Ft. Bragg, NC
06/83-05/84	Battalion Ex Ofcr	EN BN HHC Airborne Div	Ft. Bragg, NC
05/84-02/85	Assistant Div IG	Airborne Div HQS	Ft. Bragg, NC
02/85-06/86	Exec to Chief of Eng	HQSACE	WASH DC
06/86-06/89	Battalion Commander	EN BN HHC	Ft. Campbell, KY
06/89-06/91	Program Manager	HQ CMD USAE	Shape, BE
06/91-01/93	Group Commander	Combat Group	Ft. Benning, GA
01/93-03/93	Group Commander	Combat Group	Mogadishu, SO
03/93-10/93	Group Commander	ENHHC Combat Group	Ft. Benning, GA
10/93-10/94	Chief of Staff	Garrison Company	Ft. Leonard Wood, MO
10/94-06/95	DCG/Asst Commandant	US Army Eng School & FLW	Ft. Leonard Wood, MO
06/95-11/95	CG US Support Group	ACR:HHT US Forces Haiti	Port Au P, Haiti
11/95-10/96	DCG/Asst Commandant	HQ CO US Army Eng School	Ft. Leonard Wood, MO
10/96-07/97	Director, Mil Programs	HQSACE	WASH DC
07/97-Pres	Commander	US Army Eng Div, Miss Valley	Vicksburg, MS

**Honors and awards:**

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

<u>Defense Superior Service Medal</u>	<u>Army Achievement Medal (4)</u>
<u>Legion of Merit (2)</u>	<u>Joint Meritorious Unit Award</u>
<u>Defense Meritorious Service Medal</u>	<u>National Defense Service Medal (2)</u>
<u>Meritorious Service Medal (6)</u>	<u>Armed Forces Expeditionary Medal (2)</u>
<u>Army Commendation (2)</u>	<u>Army Service Ribbon</u>
	<u>Overseas Service Ribbon (2)</u>

**Memberships:**

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>Society of American Mil Eng</u>	<u>Regional Vice President</u>	<u>1997-Present</u>
<u>Society of American Mil Eng</u>	<u>Member</u>	<u>1975-Present</u>
<u>Army Engineer Association</u>	<u>Member</u>	<u>1993-Present</u>
<u>National Soc of Prof Eng</u>	<u>Member</u>	<u>1980-Present</u>
<u>Assoc of the U.S. Army</u>	<u>Member</u>	<u>1980-Present</u>
<u>American Soc of Civil Eng</u>	<u>Member</u>	<u>1975-Present</u>
<u>Phi Kappa Phi</u>	<u>Member</u>	<u>1978-Present</u>
<u>Kappa Alpha Order</u>	<u>Member</u>	<u>1970-Present</u>
<u>United Way of Warren County</u>	<u>Board Member</u>	<u>1997-Present</u>
<u>Haven House Shelter</u>	<u>Board Member</u>	<u>1998-Present</u>

**Qualifications:**

State fully your qualifications to serve in the position to which you have been named.

I have been a U.S. Army Corps of Engineers officer for over 28 years. I

**Qualifications—continued**

have commanded at all levels from platoon through Division. I have  
dealt with the many public and private interests of the Mississippi  
Valley Division for over 2 years.

**Future  
employment  
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A - Currently serving as Commander, Mississippi Valley Division and plan  
to continue to serve concurrently as Major General, U.S. Army Corps of Engineers.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

N/A. Not leaving the U.S. Army to assume President of the Mississippi  
River Commission.

3. Has anybody made a commitment to you for a job after you leave government?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A - Not a fixed term.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No.



(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

N/A - I have not previously held such a position.

**Financial  
Statement:**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None.

2. Are any assets pledged?

None.

3. Are you currently a party to any legal action?

See attached sheet.

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

N/A.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None.

**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

None.

**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None.

Additional matters—continued

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes. \_\_\_\_\_

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No. \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

AFFIDAVIT

*Phillip Ratliff Anderson*

PHILLIP RATLIFF ANDERSON ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 21st day of August, 19 99.

*Barbara D. Larson*

Notary Public

## FINANCIAL STATEMENT:

3. Are you currently a party to any legal action?

I am not a party in any legal action in my personal capacity. I have been named as a defendant in my official capacity as Commander of the Mississippi Valley Division, U.S. Army Corps of Engineers, in a suit filed by the National Wildlife Federation in the U.S. District Court for the District of Columbia, Case No. 1:98CB02700-EGS. Others named in this litigation in their official capacity as Federal officials are Dr. Joseph W. Westphal, Assistant Secretary of the Army for Civil Works; Lieutenant General Joe N. Ballard, Commander, U.S. Army Corps of Engineers; Colonel Robert Crear, Commander, Vicksburg District, U.S. Army Corps of Engineers; and the United States Army Corps of Engineers. Such a suit against Federal officials is a suit against the United States.

## INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

NOMINEE: MG PHILLIP R. ANDERSON

## STATEMENT OF DIVISION ETHICS COUNSELOR

Executive Order 12674, issued on April 12, 1989, charged the Office of Government Ethics (OGE) with promulgating "a single, comprehensive and clear set of executive-branch standards of conduct." OGE, created by the Ethics in Government Act of 1978, is an independent executive agency charged by law with overall direction of executive branch ethics policies. To fulfill its charge from the President, OGE assembled the various ethics rules used by federal agencies, and compiled a new set of rules, entitled "The Standards of Ethical Conduct for Employees of the Executive Branch." OGE published the ethical rules on August 7, 1992 at 57 Fed. Reg. 35006. See 5 C.F.R. Part 2635. The effective date of the uniform standards of conduct for all executive agencies was February 3, 1993.

The OGE standards of conduct have been implemented within the Department of Defense (DoD) by DoD Regulation 5500.7-R, entitled "Joint Ethics Regulation," (JER) published at 58 Fed. Reg. 47619 on September 10, 1993. The JER contains the OGE rules and provides supplemental ethics regulations which are applicable to all DoD personnel, military and civilian.

The following principle of ethical conduct is set forth in Executive Order 12674 of April 12, 1989 (as modified by E.O. 12731, October 17, 1990) at Section 101(b):

Employees shall not hold financial interests that conflict with the conscientious performance of duty.

Implementing regulations of the conflict of interest principle are found at Subpart D "Conflicting Financial Interests" (5 C.F.R. § 2635.401 et seq.) of the OGE regulations and Chapter 5 of DoD 5500.7-R. Sec. 2635.401 sets forth the following "overview" of the OGE regulation on conflicting financial interests:

This subpart contains two provisions relating to financial interests. One is a disqualification requirement and the other is a prohibition on acquiring or continuing to hold specific financial interests. An employee may acquire or hold any financial interest not prohibited by §2635.403. Notwithstanding that his acquisition or holding of a particular interest is proper, an employee is prohibited in accordance with §2635.402 of this subpart from

participating in an official capacity in any particular matter in which, to his knowledge, he or any person whose interests are imputed to him has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

The ethical principle regarding conflicting financial interests and Chapter 5 of DoD 5500.7-R reflects existing statutory prohibitions. These statutes are as follows:

18 U.S.C. 208(a) - An employee is prohibited by criminal statute from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he or any person whose interests are imputed to him under this statute has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

18 U.S.C. 201(b) - All DoD employees are prohibited from, directly or indirectly, giving, offering, promising, demanding, seeking, receiving, accepting, or agreeing to receive anything of value to influence any official act, to influence commission of fraud on the United States, to induce committing or omitting any act in violation of a lawful duty, or to influence testimony given before an individual or non-Federal entity authorized to hear evidence or take testimony.

18 U.S.C. 201(c) - DoD employees are also prohibited, except as provided by law for the proper discharge of official duties, from, directly or indirectly, giving, offering, promising, demanding, seeking, receiving, accepting, or agreeing to accept anything of value for or because of any official act performed or to be performed, or for or because of any testimony given or to be given before an individual or non-Federal entity authorized to hear evidence or take testimony.

18 U.S.C. 205 - Prohibits DoD employees, other than enlisted members, whether or not they are employed for compensation, from personally acting as an agent or attorney for anyone else before a department, agency, or court in connection with any covered matter in which the United States is a party or has a direct and substantial interest or from prosecuting any claim against the Federal Government or receiving any gratuity or interest in such claim for assistance in prosecuting the claim. Covered matter means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.

5 U.S.C. 5536 - DoD employees may not receive additional pay or allowances for disbursement of public money or for the performance of any other service or duty unless specifically authorized by law.

In addition to the above, DoD 5500.7-R Sections 5-409 and 5-410 contain rules as to the following:

- a. Commercial dealings among DoD employees. DoD 5500.7-R Sec. 5-409.
- b. Holding conflicting financial interests. 5 C.F.R. 2635.403.
- c. Seeking outside employment. 5 C.F.R. 2635.601-606.
- d. Engaging in outside employment or activities that conflict with official duties. 5 C.F.R. 2635.802.
- e. Limitations on certain outside activities such as receipt of outside earned income by certain DoD Presidential employees or non-career DoD employees, service as an expert witness, participation in professional associations, teaching, writing, speaking or fundraising. 5 C.F.R. 2635.804-808.
- f. Prohibitions on the receipt of honoraria. 5 C.F.R. 2636.
- g. Prohibitions on the misuse of official position such as improper endorsements or improper use of non-public information. 5 C.F.R. 2635.701-705.
- h. Prohibitions on certain post-Government service employment. DoD 5500.7-R Chap. 9.

As President of the Mississippi River Commission and Commander, U.S. Army Corps of Engineers, Mississippi Valley Division, the incumbent is required to file an SF 278 Public Financial Disclosure Report. This report is discussed with the Division Ethics Counselor and reviewed by the Agency Ethics Official and additional individuals in the review chain prior to publication. The financial interests of the incumbent are examined by each of the reviewing individuals to assure that no conflict of interest exists.

The incumbent is charged with the responsibility at all times to assure that there is no conflict between his financial interests and the financial interests of those members of the public who may be affected by the incumbent's duties. Additionally, the incumbent is charged with personal responsibility for the Command ethics program. DoD 5500.7-R, Sec. 1-400. The incumbent exercises personal leadership and takes personal responsibility through the Division Ethics Counselor for establishing and maintaining the Command's ethics program and to be personally accountable for the Command's compliance with every requirement of DoD 5500.7-R.



In the event that a potential or actual conflict of interest arises, the incumbent will consult with the Division Ethics Counselor and/or, if warranted, the Designated Agency Ethics Official. If a potential conflict of interest exists, it will be resolved by disqualification, divestiture, reassignment, rearrangement of duties, or request for a waiver.

The incumbent's current SF 278 indicates no potential conflict of interest.

Date: August 19, 1999

  
ANNETTE B. KUZ  
Division Ethics Counselor

MISSISSIPPI RIVER COMMISSION MEMBERS

MG Phillip R. Anderson<sup>1</sup>, President  
Mississippi River Commission  
P.O. Box 80 Vicksburg, MS 39181-0080  
(601) 634-5750/FAX 634-5666

Mr. Sam E. Angel<sup>1</sup>  
Epstein Gin  
P.O. Box 748  
Lake Village, AR 71653  
(870) 265-5382/5383/FAX 265-5690

<sup>1</sup> Designated, but not confirmed.

Mr. R. D. James  
 Riley Cotton Company  
 810 Maple Street  
 New Madrid, MO 63869  
 (573) 748-5574/5345/FAX 748-2041

Mr. William Clifford Smith  
 T. Baker Smith 6 Son, Inc.  
 P.O. Box 2266  
 Houma, LA 70361  
 (504) 868-1050/FAX 853-0109

BG Robert H. Griffin<sup>1</sup>, Commander U.S. Army Engineer Division,  
 Great Lakes and Ohio River  
 P.O. Box 1159  
 Cincinnati, OH 45201-1159  
 (513) 684-3002/FAX 684-2085

BG Carl A. Strock<sup>1</sup>, Commander U.S. Army Engineer  
 Division, Northwestern  
 P.O. Box 2870  
 Portland, OR 97208-2870  
 (503) 808-3701/FAX 808-3706

RADII Nicholas A. Prah<sup>1</sup>, Director  
 Atlantic and Pacific Marine Centers  
 National Oceanic and Atmospheric Administration  
 439 West York Street  
 Norfolk, VA 23510  
 (757) 441-6168/FAX 441-6495

(NON-VOTING POSITION)

COL Wm. David Brown, Secretary  
 Mississippi River Commission  
 P.O. Box 80  
 Vicksburg, MS 39181-0080  
 (601) 634-5752/FAX 634-5666

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STATEMENT OF SAM EPSTEIN ANGEL, NOMINATED BY THE PRESIDENT TO BE A  
 MEMBER OF THE MISSISSIPPI RIVER COMMISSION

Mr. Chairman and Members of the Committee: I am honored to appear before you as the nominee for member of the Mississippi River Commission.

Mr. Chairman, I would like to make a brief statement about the Mississippi River Commission, the Mississippi River and Tributaries (MR&T) project, and my qualifications for the position for which I have been nominated.

The Mississippi River Commission, established by Act of Congress on June 28, 1879, consists of seven members, all of whom are appointed by the President of the United States subject to confirmation by the Senate. Three members are Corps of Engineers officers, one of whom serves as president; one member is from the National Oceanic and Atmospheric Administration; and three members are from the civilian sector, two of whom must be civil engineers.

From its inception in 1879, the Commission has been charged with the vital task of planning and implementing a program of flood damage reduction projects and navigation improvements on the Mississippi River. More recently, project purposes have been expanded to include environmental restoration. This task continues to be conducted in concert with the myriad of political institutions, individuals, and public entities which have major interests in seeing that the water resources needs and opportunities of the Mississippi Valley are evaluated, planned, designed, constructed, and maintained.

As established in 1879, the Commissioners were to serve as advisers in planning and implementing water resource projects and programs on the Mississippi River between the Head of Passes below New Orleans to its headwaters. Since 1928, the Commission has focused on the Mississippi River and Tributaries project, authorized by the Flood Control Act of May 15, 1928, to be implemented under oversight of the Commission. The MR&T project extends generally from the confluence of the Ohio River to the Head of Passes below New Orleans and covers portions of seven States. It receives water from all or portions of 31 States and part of two Canadian provinces, or roughly 41 percent of the contiguous United States. Effective planning,

design, construction, and operation of the widespread and complex MR&T project have been assisted greatly by the Commission's active consultation with the public, particularly on its semiannual lower Mississippi River inspection trips, and by the high degree of professionalism that has been developed in its staff.

The MR&T project is truly of national significance. For example, a major flood on the lower Mississippi River would have catastrophic effects on the inhabitants of the Mississippi Valley and the economy of the Nation were it not for the protection provided by the levees and other flood control works throughout the project area. Many have noted that the comprehensive project on the lower river provided for passage of major floods in 1973, 1983, 1997, and other years without the extensive damage suffered in the upper river area during the 1993 and 1995 flood events.

In addition, the navigation features of the project are essential to maintaining the river for shipping import and export commodities between inland ports and world markets. In short, the navigation features of the MR&T project are essential in peace time and vital to our national defense in times of emergency.

Reorganization of the Corps of Engineers in April 1997 has placed the entire length of the Mississippi River within one Division of the Corps of Engineers. The Commander of this Mississippi Valley Division of the Corps also serves as President of the Mississippi River Commission. The reorganization of the Corps now allows management of the Mississippi River as a single and unified system and enables the Commissioners to more effectively serve as advisers to the Division Commander and the Chief of Engineers as authorized in the 1879 legislation.

The Commission members have been active as advisers to the Corps on the Upper Mississippi River since the reorganization. The Commission conducted inspection trips on the Upper Mississippi River in August 1997, 1998, and 1999, holding a series of public meetings in the St. Paul, Rock Island, and St. Louis Districts each year, in addition to the semiannual inspection trips and public meetings in the Memphis, Vicksburg, and New Orleans Districts.

In regards to my personal qualifications, I have served on the Mississippi River Commission since September 1979. This confirmation will provide my third consecutive 9-year appointment to this vital Commission. I firmly believe that my experience since 1979 in partnering with local interests, levee boards, and Federal, State, and area agencies and organizations justifies my reappointment to the Mississippi River Commission.

I am a native of Lake Village, Arkansas, and was reared adjacent to the Mississippi River. I feel that the many years of living and working in this area and also being affiliated with the Commission have given me a vast knowledge of the Mississippi River and the various problems associated with it. It has been my privilege to meet many people over the years, both in the lower valley and recently in the upper valley, to discuss with them their concerns regarding this powerful river.

I have served as president of Epstein Land Company and Epstein Gin Company in Lake Village since 1980. I am a commissioner of the Chicot County Watershed District and former commissioner of the Chicot County Rural Development Authority and Southeast Arkansas Levee District. I currently serve as Director of the Cotton Warehouse Association and Southern Ginners Association, among other local, State, and national farming organizations.

I attended Louisiana State University and the University of Arkansas at Monticello. I served with the Army National Guard from 1957 to 1965 and the United States Army from 1961 to 1962.

If confirmed to the position, Mr. Chairman, I would look forward to continuing to play a key role in the continual improvement of the Mississippi River system and the MR&T project by applying the most modern practices in water resources engineering. I would also look forward to renewing my membership on a Commission that focuses not only on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway, but also incorporates programs and projects for environmental protection and restoration.

Mr. Chairman, for your information, I have attached a complete biography on myself and a current list of members of the Mississippi River Commission.

This completes my prepared statement, and I would be pleased to respond to any questions.

# UNITED STATES SENATE

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

## INFORMATION

### REQUESTED OF PRESIDENTIAL NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

<b>Name of Nominee:</b>	<u>SAM EPSTEIN ANGEL</u>
<b>Business Address:</b>	<u>P O BOX 748</u>
	<u>LAKE VILLAGE, ARKANSAS 71653</u>
<b>Business Phone:</b>	<u>( 870 ) 265-2332</u>
<b>Home Address:</b>	<u>3112 SOUTH LAKESHORE DRIVE</u>
	<u>LAKE VILLAGE, ARKANSAS 71653</u>
<b>Home Phone:</b>	<u>( 870 ) 265-5404</u>

UNITED STATES SENATE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: ANGEL SAM EPSTEIN  
(Last) (First) (Middle)

Position to which nominated: MISSISSIPPI RIVER COMMISSION

Date of Nomination: \_\_\_\_\_

Date of birth: 13 1 39 Place of birth: Lake Village, Arkansas  
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Donna Chrismond Angel

Name and ages of children: Sam E. Angel II (33)  
Cheryll Angel Ray (29)  
Sarah Epstein Angel (6)  
Ben Hollis Angel (3)  
Step-Son Douglas Lee Chrismond (20)

Institution	Dates attended	Degrees received	Dates of degrees
<u>Lakeside High School</u>	<u>9/53 to 5/56</u>	<u>12th grade</u>	
<u>Louisiana State Univ.</u>	<u>9/56 to 1/57</u>	<u>None</u>	
<u>Univ. of Ar. Monticello, AR</u>	<u>1/57 to 5/57</u>	<u>None</u>	

**Employment record:**

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

<u>Sam Epstein Estate</u>	<u>Ass't Manager</u>	<u>1957 to 1969</u>
<u>Sam Epstein Estate</u>	<u>Manager</u>	<u>1969 to 1980</u>
<u>Epstein Gin Co.</u>	<u>Managing Partner</u>	<u>1980 to Present</u>
<u>Epstein Land Co.</u>	<u>Managing Partner</u>	<u>1980 to Present</u>
<u>Sam Angel, Trust</u>	<u>Trustee</u>	<u>1994 to Present</u>

## Employment record—continued

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## Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

NONE

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## Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Cotton Warehouse Assoc.	Director	1995 to Present
Bank of Lake Village	Director	1971 to Present
Southern Ginners Assoc.	Director	1978 to Present
Chicot Co. Watershed	Commissioner	1970 to Present
SE AR Levee District	Former Commissioner	1971 to 1979
Chicot Co. Rural Dev.	Former Commissioner	1973 to 1983
So. Ginners Assoc.	Former President	1988 to 1989
Southern Ginners Assoc.	Former Chairman of Board	1989 to 1990
National Cotton Council	Delegate	1994 to Present
National Cotton Council	Former Director	1994
Mississippi River Commission	Senior Member	1979 to Present
Hebrew Union Cong.	Board Member	1999 to Present
Chamber of Commerce	Member (Epstein-Gin)	1980 to Present

## Qualifications:

State fully your qualifications to serve in the position to which you have been named.

I was born and raised adjacent to the Mississippi River.

## Qualifications—continued

I feel that living in this area and also being a member of the Mississippi River Commission for the past 18 years has given me a vast knowledge of the Mississippi River or problems associated with the Mississippi River.

**Future  
employment  
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

N/A

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

N/A

3. Has anybody made a commitment to you for a job after you leave government?

NO

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

NONE

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

N/A

**Financial  
Statement:**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

NONE

2. Are any assets pledged?

NO

3. Are you currently a party to any legal action?

NO

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

YES

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

NO



**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

NONE

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

NONE

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

NONE

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

N/A

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

N/A

\_\_\_\_\_  
\_\_\_\_\_  
**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

SEE ATTACHMENT A

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

NONE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

NO

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

SAM E. ANGEL

POLITICAL AFFILIATION AND ACTIVITIES:

The following is from a list presented by the Federal Election Commission.

Arkansas Victory Fund

7/31/96--\$1000.00  
7/20/98--\$1500.00

Democratic Senatorial Campaign Committee

5/16/97--\$5000.00  
7/20/98--\$ 500.00

Friends of Blanche Lincoln

3/31/98--\$1000.00  
6/03/98--\$1000.00  
7/20/98--\$1000.00

Marion Berry for Congress

4/17/96--\$1000.00  
9/24/97--\$ 500.00

Senator Dale Bumpers Re-Election Committee

4/01/91--\$1000.00  
8/26/92--\$1000.00

Committee to Elect Winston Bryant U S Senator

7/31/96--\$1000.00  
4/04/96--\$1000.00

DNC Service Corp./Democratic National Committee

7/20/92--\$5000.00  
8/31/92--\$5000.00  
7/26/96--10000.00

Democratic Party of Arkansas Federal Account

3/27/95--\$1000.00  
11/9/93--\$1200.00

Additional matters—continued

2. Do you agree to appear before all Congressional Committees which seek your testimony?

YES

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

NONE

#### AFFIDAVIT

SAM EPSTEIN ANGEL ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

*Sam Epstein Angel*  
Subscribed and sworn before me this

19th day of August, 1999.

*Shelma Whittle*  
Notary Public

1/18/2003

#### STATEMENT OF BRIGADIER GENERAL ROBERT H. GRIFFIN, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION??

Mr. Chairman and Members of the Committee: I am honored to appear before you as the nominee for member of the Mississippi River Commission.

Mr. Chairman, I would like to make a brief statement about the Mississippi River Commission, the Mississippi River and Tributaries (MR&T) project, and my qualifications for the position for which I have been nominated.

The Mississippi River Commission, established by Act of Congress on June 28, 1879, consists of seven members, all of whom are appointed by the President of the United States subject to confirmation by the Senate. Three members are Corps of Engineers officers, one of whom serves as president; one member is from the National Oceanic and Atmospheric Administration; and three members are from the civilian sector, two of whom must be civil engineers.

From its inception in 1879, the Commission has been charged with the task of planning and implementing a program of flood damage reduction projects and navigation improvements on the Mississippi River. More recently, project purposes have been expanded to include environmental restoration. This task continues to be conducted in concert with the myriad of political institutions, individuals, and public entities which have major interests in seeing that the water resources needs and opportunities of the Mississippi Valley are evaluated, planned, designed, constructed, and maintained.

As established in 1879, the Commissioners were to serve as advisers in planning and implementing water resource projects and programs on the Mississippi River between the Head of Passes below New Orleans to its headwaters. Since 1928, the Commission has focused on the Mississippi River and Tributaries project, authorized by the Flood Control Act of May 15, 1928, to be implemented under oversight of the Commission. The MR&T project extends generally from the confluence of the Ohio River to the Head of Passes below New Orleans and covers portions of seven States. It receives water from all or portions of 31 States and part of two Canadian provinces, or roughly 41 percent of the contiguous United States. Effective planning, design, construction, and operation of the widespread and complex MR&T project have been assisted greatly by the Commission's active consultation with the public, particularly on its semiannual lower Mississippi River inspection trips, and by the high degree of professionalism that has been developed in its staff.

A major flood on the lower Mississippi River would have catastrophic effects on the inhabitants of the Mississippi Valley and the economy of the Nation were it not for the protection provided by the levees and other flood control works along the mainstem of the Mississippi and Atchafalaya Rivers. Many have noted that the comprehensive project on the lower river provided for passage of major floods in 1973, 1983, 1997, and other years without the extensive damage suffered in the upper river area during the 1993 and 1995 flood events.

In addition, the navigation features of the project help to maintain the river for shipping import and export commodities between inland ports and world markets.

Reorganization of the Corps of Engineers in April 1997 has placed the entire length of the Mississippi River within one Division of the Corps of Engineers. The Commander of this Mississippi Valley Division of the Corps also serves as President of the Mississippi River Commission. The reorganization of the Corps now allows management of the Mississippi River as a single and unified system and enables the Commissioners to more effectively serve as advisers to the Division Commander and the Chief of Engineers as authorized in the 1879 legislation.

The Commission members have been active as advisers to the Corps on the Upper Mississippi River since the reorganization. The Commission conducted inspection trips on the Upper Mississippi River in August 1997, 1998, and 1999, holding a series of public meetings in the St. Paul, Rock Island, and St. Louis Districts each year, in addition to the semiannual inspection trips and public meetings in the Memphis, Vicksburg, and New Orleans Districts.

In regards to my personal qualifications, I earned a Bachelor of Science degree in Mechanical Engineering and a Master's degree in Civil Engineering, both from Auburn University in Alabama. I also hold a second Masters degree in Business Administration from Long Island University in Greenvale, New York. In addition, I am a graduate of the U.S. Army War College and the U.S. Army Command and General Staff College. I am a registered professional engineer in the Commonwealth of Virginia.

I have served more than 28 years in the uniformed service as an Army Engineer. I have served continuously in the U.S. Army Corps of Engineers since 1992 as District Engineer of the Mobile District, U.S. Army Corps of Engineers Headquarters Chief of Staff, Division Commander for the Northwestern Division in Portland, Oregon, and presently as Division Commander for the Great Lakes and Ohio River Division in Cincinnati, Ohio.

In my previous assignment as Commander of the Northwestern Division from December 1996 until July 1999, I directed all Corps of Engineers water resources activities in an area comprising about one-quarter of the land area of the United States. Included in this area were water management responsibilities in the Missouri River Basin, a significant tributary of the Mississippi River.

As Commander of the Great Lakes and Ohio River Division, I am tasked with directing all Corps of Engineers water resources activities in the Great Lakes and Ohio River basins, an area of over 355,300 square miles, including all or parts of 17 States. The program includes planning, construction, and operation of navigation structures on the Ohio River and Great Lakes system and flood control projects throughout both basins. This work also includes hydropower, environmental protection and restoration, water conservation, recreation, and disaster assistance.

Some of my major command and staff assignments other than within the Corps of Engineers has included Battalion Commander, 864th Engineer Battalion, Fort Lewis, Washington, and Dhahran, Saudi Arabia, plus command and staff positions with engineer units both in the United States and abroad.

If confirmed to the position, Mr. Chairman, I would look forward to playing a key role in the continual improvement of the Mississippi River system and the MR&T project by applying the most modern practices in water resources engineering. I would also look forward to being a member of a Commission that focuses not only on the traditional roles of safely passing the Mississippi River Basin floodwaters to the Gulf of Mexico, plus providing a safe and dependable navigable waterway, but also incorporates programs and projects for environmental protection and restoration.

Mr. Chairman, for your information, I have attached a complete biography on myself and a current list of members of the Mississippi River Commission.

This completes my prepared statement, and I would be pleased to respond to any questions.

## UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT  
AND PUBLIC WORKS

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

## INFORMATION

REQUESTED OF PRESIDENTIAL  
NOMINEES

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

Name of Nominee:	<u>Brigadier General Robert H. Griffin</u>
Business Address:	<u>P.O. Box 1159</u> <u>Cincinnati, OH 45201-1159</u>
Business Phone:	<u>(513 ) 684-3002</u>
Home Address:	<u>401 F Brigadier Lane</u> <u>Fort Wright, KY 41011</u>
Home Phone:	<u>( 606 ) 341-4125</u>

Name: Griffin Robert H  
(Last) (First) (Middle)

Position to which nominated: Member, Mississippi River Commission

Date of nomination: \_\_\_\_\_

Date of birth: 04 10 47 Place of birth: Decatur, GA  
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Bobbie Finley Griffin

Name and ages of children: John H. Griffin Age 23  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Institution	Dates attended	Degrees received	Dates of degrees
Auburn Univ, Auburn, AL	65-70	BSME	Dec 70
Auburn Univ, Auburn, AL	78-80	MS	Mar 80
Long Island Univ			
(CW Post Center)	80-82	MBA	1982

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Engineer In Training, Heery Intl, Atlanta, GA, Jan-Feb 71

(Awaiting entry on active duty, US Army)

U.S. Army Engineer Officer, Apr 71 to present. Various command and staff assignments including Combat Heavy Engineer Battalion in Operations Desert Shield and Desert Storm. Have served continuously in the U.S. Army



**Employment record—continued**

Corps of Engineers since 1992 as District Engineer Mobile District,  
 USACE Chief of Staff, Division Commander for Northwestern Division  
 (Portland, OR) and presently Division Commander for Lakes and Rivers  
 Division (Cincinnati, OH)

**Honors and awards:**

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Honor Graduate, Engineer Officer Basic Course

Honor Graduate, Engineer Officer Advanced Course

Honor Graduate, U.S. Army Command and General Staff College

Awards include Bronze Star Medal, Legion of Merit w/Oak Leaf Cluster,

Meritorious Service Medal w/3 Oak Leaf Clusters, Parachute Badge and

Ranger Tab

**Memberships:**

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Society of Amer Mil Engineers	Post President 1994	1971-present
US Army Engr Assoc	None	1988-present
Assoc of US Army	None	1989-present

**Qualifications:**

State fully your qualifications to serve in the position to which you have been named.

Serves in position normally designated for military member of the MRC.

**Qualifications—continued**

Previous division commander of the Northwestern Division, U.S. Army Corps of Engineers, with water management responsibilities in the Missouri River Basin, a significant tributary of the Mississippi River. Currently serves as the division commander of the Great Lakes and Ohio River Division, with water management and navigation project purposes for the Ohio River Basin.

**Future employment relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Not applicable

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

Not applicable

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

I expect to serve during my assignment as the Commander, Great Lakes and Ohio River Division.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Not applicable

**Financial  
Statement:**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None

2. Are any assets pledged?

No

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

No

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Not applicable

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

None

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

Not applicable

**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None

**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

None - no speeches given involving environmental issues.

**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

## Additional matters—continued

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

## AFFIDAVIT

Robert H. Griffin, BG, USA  
24 AUG 99

Robert H. Griffin ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 24<sup>th</sup> day of August, 1999.

Kasey A. Schilling  
Notary Public



KASEY A. SCHILLING  
Notary Public, State of Ohio  
My Commission Expires April 14, 2003



## **NOMINATIONS OF GLENN McCULLOUGH, SKILA HARRIS AND GERALD V. POJE**

**WEDNESDAY, OCTOBER 6, 1999**

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The committee met, pursuant to notice, at 3:03 p.m., in room 406, Dirksen Senate Office Building, Hon. John H. Chafee (chairman of the committee) presiding.

Present: Senators Chafee, Baucus, and Lautenberg.

Senator CHAFEE. I want to welcome everyone here this afternoon for the hearings. We have several Senators who will make introductions. In order to accommodate their heavy schedules, I am going to ask that they proceed first.

Senator Cochran, we welcome you here and look forward to your testimony.

### **STATEMENT OF HON. THAD COCHRAN, U.S. SENATOR FROM THE STATE OF MISSISSIPPI**

Senator COCHRAN. Thank you, Mr. Chairman. We appreciate very much your convening this hearing.

It is my pleasure to recommend and present to the committee today Glenn McCullough of Tupelo, Mississippi, who has been nominated to serve on the Board of the Tennessee Valley Authority. With his experience as mayor of the first TVA city, and as director of the Appalachian Regional Commission Office in Mississippi, and as a person who has been involved in economic development and industrial development in our State, Glenn McCullough is very well suited and qualified to serve on the Board of the Tennessee Valley Authority. He has good judgment, he is honest, he has proven that he is a hard worker and can be very effective in public service. I am looking forward to his serving on the Board because I am confident that he will serve with distinction and be a very effective and truly outstanding member of this board.

He has credentials and educationally he graduated from Mississippi State University, and Tupelo City Schools. He is someone who is widely respected and very popular in North Mississippi.

We are very pleased to be here today and to join Senator Lott, Congressman Wicker, and Congressman Pickering in recommending him to the committee.

Senator CHAFEE. Thank you very much, Senator.

I have no questions. If you have further appointments, please feel excused if you so choose.



Senator COCHRAN. I think I am going to stay here and see what the Congressmen say to be sure they do it right.

[Laughter.]

Senator CHAFEE. We will now hear from Senator Thompson.

**STATEMENT OF HON. FRED THOMPSON, U.S. SENATOR FROM  
THE STATE OF TENNESSEE**

Senator THOMPSON. Thank you, Mr. Chairman.

I am pleased to be here today to introduce Ms. Skila Harris, who has been nominated to fill one of the two current vacancies on the TVA Board.

I want to thank you, Mr. Chairman, for scheduling this hearing so expeditiously and for allowing me to be here today. I know you are aware of the critical importance of the Tennessee Valley Authority to my home State of Tennessee and I appreciate your willingness to let Members from the valley participate in this process.

Mr. Chairman, as you know, the TVA Board is comprised of three directors each serving 9-year terms. However, since May 18 of this year, TVA has had just one sitting board member—one person responsible for running a \$7 billion utility. That is not a good set-up. In fact, I would go so far as to say that it is asking for trouble. For this reason, it is important that we get a full complement of TVA directors as soon as possible.

Again, I commend you for holding this hearing and I hope we can do our due diligence as quickly as possible so that we can get two new board members confirmed before we adjourn for the year.

Mr. Chairman, although she is not a Tennessee native, Skila Harris is quite familiar with the Volunteer State and with TVA. She is a native of Bowling Green, Kentucky and she earned an undergraduate degree in Government from Western Kentucky University and a master's degree in Legislative Affairs from George Washington University. She lived in Nashville for a number of years where I met her and her husband, Fred Graham. During this time she served as vice president for development and compliance at the Steiner-Leff Iron and Metal Company. From 1993 to 1997, Ms. Harris served as special assistant to the Vice President and Chief of Staff to Mrs. Gore.

She also served in the Department of Energy during both the Carter and Clinton Administrations, most recently as executive director of the Secretary of Energy's Advisory Board. In that capacity, she oversaw the work of the Tennessee Valley Authority Advisory Committee, a group made up of various stakeholder groups interested in the future of TVA in a competitive electricity market.

I believe that she is a person of intelligence, sensitivity, and common sense and she has done very well in all the jobs she has taken on to this point.

Mr. Chairman, TVA is facing major challenges as we prepare to enter the 21st century. The U.S. economy is changing and the way Americans buy and sell electricity will inevitably change with it. It may not be this year and it may not be for 5 more years, but change is coming and TVA must be ready to face that change in a way that does not leave the people in the Tennessee Valley worse off.

One of the things that TVA must do to prepare for the new millennium is modernize its management policies. Recently I have expressed deep concern about an ongoing dispute between TVA management and the TVA inspector general. But problems go much deeper than that. TVA needs some new blood and I believe that Skila Harris and Glenn McCullough will provide it.

I have met with each of these nominees privately and we have had some very candid exchanges. The good news is that they still want the job.

[Laughter.]

Senator THOMPSON. I am hopeful that if confirmed they will view the job of TVA director as a contract with the citizens of the Tennessee Valley—the people TVA was created to serve—and that they will do their best to return to TVA a focus on this unique mission of public service.

I look forward to hearing from them and for the opportunity to ask questions.

Mr. Chairman, thank you again for allowing us to be here today.

Senator CHAFEE. Thank you very much, Senator Thompson. Again, if you have appointments you would like to leave for now, that would certainly be understandable.

Senator THOMPSON. I am going to stay awhile.

Senator CHAFEE. You want to check and see what these Representatives are going to say?

[Laughter.]

Senator CHAFEE. Representative Pickering, why don't you proceed?

**STATEMENT OF HON. CHARLES PICKERING, U.S.  
REPRESENTATIVE FROM THE STATE OF MISSISSIPPI**

Mr. PICKERING. Thank you, Mr. Chairman.

It is a great day to be here and a great day for Glenn McCullough and his family. I know I join Senator Cochran, Senator Lott, and Roger in welcoming the McCullough family here—Glenn's wife, one of his sons, and his father.

Senator CHAFEE. Is the family here? Please rise so that we can see you. We are very glad you are here.

[Applause.]

Senator CHAFEE. We are very glad they are here.

Please proceed.

Mr. PICKERING. It has been some time since the President has appointed a Mississippian—1962, in fact, was the last time Congressman Frank Smith was appointed by President Kennedy. So this is a day that Mississippians celebrate for the importance that TVA is and to now have someone on the Board from Mississippi to bring the balance.

Senator Thompson, I do not know if you are aware, but we made an agreement in the last Congress—as we looked at the economic development, the non-TVA and non-power appropriation, and the debt restructuring, we said that we would do this. But in exchange for that, Tennessee must give their offensive coordinator to the University of Mississippi.

[Laughter.]

Mr. PICKERING. They have sent him down and he is now leading us into the top 25. And that they also must give Archie Manning's last son to Ole Miss—and that happened as well. There are a few other agreements, but we will keep that non-public.

[Laughter.]

Mr. PICKERING. But in all seriousness, Glenn McCullough has a great background and great experience. Working with ARC and economic development in private business, he is a mayor of one of the leading communities recognized all over the country for what they have done as a progressive community in education and infrastructure and economic development. He brings a wealth of experience and great talent and the right vision for TVA to go into the 21st century. We could not be more proud of Glenn McCullough and to have his leadership and his representation for TVA, for Mississippi, and for the whole valley and the other States in the region. He will do a tremendous job.

It is with great pride that I recommend and encourage the adoption and confirmation by the Senate of Glenn McCullough to the TVA Board.

Thank you.

Senator CHAFEE. Thank you very much.

Representative Wicker?

**STATEMENT OF HON. ROGER WICKER, U.S. REPRESENTATIVE  
FROM THE STATE OF MISSISSIPPI**

Mr. WICKER. Thank you very much, Mr. Chairman.

Let me just say at the outset that it is a rare and distinct privilege for Congressman Pickering and me to be down at this end of the Capitol Building to testify before your committee today and I appreciate the opportunity to come and say a few words of testimony.

It is hard for me to express how delighted I am to see this day arrive and see my good friend, Glenn McCullough, be nominated and hopefully confirmed by the U.S. Senate. No doubt there were significant negotiations which led to this day, but I can only say that both the Administration and the Senate leadership have done themselves proud with the nomination of both Skila Harris and Glenn McCullough. I support them and am glad to be here and offer this testimony today.

I have a prepared statement, Mr. Chairman, which I ask to be submitted to the record at this point.

Senator CHAFEE. Without objection, your prepared statement will appear in the record.

Mr. WICKER. Let me just say that I am here wearing a couple of hats. I am here as chairman of the Congressional TVA Caucus. I am also here as a friend of Glenn McCullough, someone who actually graduated from a leadership class in Lee County with Glenn McCullough back in the early 1980's. I am his representative in Congress. He is my mayor. I know him well and can vouch for his outstanding leadership abilities.

You are going to like Glenn McCullough, Mr. Chairman. I have seen him work. I have seen him work as mayor, as State director of the Appalachian Regional Commission, and also just as a community leader and volunteer. You have already met his outstand-

ing family. He is going to make us an outstanding member of the Board.

Glenn McCullough governs through cooperation. He leads by example and by conciliation. He listens to reason. I think he will be able to help assist in smoothing the waters on the Tennessee Valley Authority Board. You are going to find him to be a fine board member. He is better known in Mississippi now than he is throughout the rest of the valley. But I can tell you without fear of contradiction that within a year's time he is going to be quite popular with people interested in efficiently priced electricity and economic development and job creation throughout the TVA Region. He is going to make us an outstanding board member and I appreciate the opportunity to come before you and endorse him today.

Thank you, Mr. Chairman.

Senator CHAFEE. Thank you very much.

We appreciate you all coming here. If you all have further appointments, obviously you are excused now and I thank you for coming.

Senator Thompson, would you like to come up here and join in any questions?

Senator THOMPSON. If I may.

**OPENING STATEMENT OF HON. JOHN H. CHAFEE,  
U.S. SENATOR FROM THE STATE OF RHODE ISLAND**

Senator CHAFEE. The purpose of today's hearing, as you can gather, is to consider three nominations. The first two nominees are Mayor Glenn McCullough, Jr., and Ms. Skila Harris to be appointed members of the Tennessee Valley Authority. The third nominee is Dr. Gerald Poje to be reappointed as a member of the Chemical Safety and Hazard Investigation Board.

After we hear from the nominees, we will have a panel to take testimony on the TVA and some of the important issues before it.

I welcome our three nominees as well as Senator Lott. I think Senator Lott is planning to be here—I know that is his intention. And we are so pleased that Senator Cochran and Senator Thompson, plus Representatives Pickering and Wicker are here today to introduce Mayor McCullough and Ms. Harris.

The TVA, a wholly owned government corporation, conducts a unified program of resource development for the advancement of economic growth in the Tennessee Valley region. The Authority's program of activities includes flood control, navigation and development, electric power production, recreation improvement, and forestry and wildlife development.

I am one of the few people around here, I suspect, who is old enough to remember when TVA was created. I think it was about 1933 and it was the brainchild of President Roosevelt and it was looked on as extremely visionary and a bold undertaking at the time dealing with the course of the Tennessee River Valley.

The President has nominated Mayor Glenn L. McCullough for appointment as a member. Mr. McCullough has served as mayor of Tupelo since 1997, serves on the executive committee of the Mississippi Municipal League, and Governor's task force for economic development planning.

Ms. Harris has served in the Department of Energy during both the Carter and Clinton Administrations and has over 12 years experience in the field of energy. Prior to her current position, she was executive director of the Secretary of Energy's Advisory Board where she managed the work of the Tennessee Valley Advisory Committee.

The Chemical Safety and Hazardous Investigation Board's task is to investigate chemical accidents and report the facts, circumstances, and the cause or probable cause of any accidental release resulting in a fatality, serious injury, or substantial property damages.

The President has nominated Dr. Gerald V. Poje for reappointment as a member of the Board. He has served as a member since January 1998 and is a specialist in toxicology and policies dealing with chemical hazards. He has worked with the Inter-Governmental Forum on Chemical Safety and the Organization for Economic Cooperation and Development. Furthermore, it promotes global remediation and contingency planning around the Y2K problem.

The final panel this afternoon will focus on TVA policy, on the TVA Customer Protection Act introduced by Senators McConnell and Bunning. It has been some time since this committee has held any TVA hearings, and frankly, they are overdue. There are many questions to ask of TVA. How does TVA's mission compare to its mission in 1933? Is TVA serving its constituency—the ratepayers in the valley—as fairly and effectively as possible? Is it time for TVA to undertake some reforms?

I want to commend Senator McConnell for introducing S. 1323, which in my view offers many common sense suggestions for the committee's consideration. Senator Thompson, too, has offered suggestions to his Government Affairs Committee dealing specifically with the appointment process for TVA's inspector general.

I look forward to both Senators participation this afternoon.

Now we will hear from Senator Baucus, if you have a statement.

**OPENING STATEMENT OF HON. MAX BAUCUS,  
U.S. SENATOR FROM THE STATE OF MONTANA**

Senator BAUCUS. Mr. Chairman, I join you in welcoming the nominees. TVA and the Chemical Safety Board are two very important agencies. I congratulate the nominees and families and thank them in advance for the service they will be providing to our country and look forward to hearing from each of them.

Senator CHAFEE. Thank you, Senator Baucus.

We are delighted to be joined by Senator Lott. We know that this is a matter of intense concern to you and we appreciate you taking time from your busy schedule. Should you have some kind of statement, now would be a good time.

**STATEMENT OF HON. TRENT LOTT, U.S. SENATOR FROM THE  
STATE OF MISSISSIPPI**

Senator LOTT. Thank you very much, Mr. Chairman. I would ask unanimous consent that my entire statement be placed in the record.

Senator CHAFEE. Without objection, your prepared statement will appear in the record.

Senator LOTT. Mr. Chairman, the Tennessee Valley Authority is a very important institution in our whole region of the country. It is important to Mississippi, Tennessee, Kentucky, and Alabama. It has provided a lot of great service to the people in that region—not just power—but also very important development and leadership over many, many years. They desperately need now a full complement of leaders. There are two vacancies on the Board. And they have a lot of very important decisions that they are going to have to make in the near future. A lot of the things we will be considering in the not too distant future here in the Congress will require a real aggressive participation and input from the TVA.

Senator Thompson and I had lunch 2 or 3 weeks ago and we talked about our interest in and our concern about TVA and how important it is to our State and our whole mid-south part of the country. So I am glad that you are moving forward expeditiously with these nominees. I am particularly pleased to be here in support of the nomination of Glenn L. McCullough, Jr., the mayor of Tupelo, Mississippi, to be one of the new members of the Board.

I congratulate Ms. Harris for her selection. I think the two of them will bring a breath of experience to the Board and give them a full three-member board that they need desperately and that this will be a positive accomplishment.

Glen and I have been good friends for a long time. He is an outstanding young man that has accomplished an awful lot in his relatively young life. He comes from a great family that have perhaps already been introduced. His father "Cotton"—as he is affectionately known—his mother Ms. Lanier McCullough, his sister Sarah, his sister Mary Conner Adcock, her husband David, and their son Shaw. Where is Shaw? I want to see Shaw.

[Laughter.]

Senator LOTT. There he is back there. He is a good-looking young man.

I am glad the whole family is here in support of this very fine nominee.

Tupelo, in some areas, is better known as the birthplace of Elvis Presley. In fact, Elvis is actually still there, as you know.

[Laughter.]

Senator LOTT. It is also one of the outstanding small cities in America and has received a lot of recognition over the years. Under Mr. McCullough's administration it has twice won the overall award for innovations in municipal government from the Stennis Institute of Government at Mississippi State University. In particular, Tupelo was selected for outstanding performance in community policing and neighborhood revitalization.

In the past, it has been selected as one of the most outstanding cities in America. In fact, it was selected as one of the ten most livable all-American cities in the Nation. So this is really an outstanding community. They have had leadership politically, but more importantly, they have had leadership in their civic community. When Tupelo has a problem, they have a group of people in that town that will come together and find a solution. They will just do it.

This city has been written up at least twice in recent years by the Wall Street Journal as one of the most dynamic developing towns in the country. It is now referred to as the Tupelo Model. But it required outstanding leadership in the mayor's office and Glenn has certainly done that. He has been innovative.

Before he went in as mayor, he was the Mississippi director of the Appalachian Regional Commission. So he worked with the communities throughout that region. He is already familiar with the region. He has been in every one of those towns. He has worked on projects of all kinds, economic development, water projects, highway needs—all of that. He has already been through that on a regional basis.

So he has the elected experience, the poignant experience there at ARC, and before that he was a businessman. So I think he has all the credentials you need to be a real leader at TVA.

Beside that, I found from my own experience that he is a dynamic speaker. He can talk about a vision of what needs to be done for our State and our country.

I am delighted to be here and support his nomination. He did have one youthful indiscretion. He went to Mississippi State University—but I must say, so did John Stennis—and seemed to do quite well with that background. But I know he is going to be an excellent member of the TVA and I support his nomination.

In fact, I support the nomination of both of these candidates for TVA. We need them desperately. If this committee will act expeditiously, I can assure the Senators and the Senate that I will make sure that their nominations are considered expeditiously in the full Senate.

Good luck to you. I know you will both do an excellent job, as well as the other nominee here today, too.

Thank you.

Senator CHAFEE. Thank you very much, Senator Lott. I know you have a busy schedule, so if you have to leave, we will certainly understand.

Let's start with Mayor McCullough.

**STATEMENT OF GLENN L. MCCULLOUGH, JR., NOMINATED BY THE PRESIDENT TO BE APPOINTED AS MEMBER OF THE BOARD OF DIRECTORS, TENNESSEE VALLEY AUTHORITY**

Mr. MCCULLOUGH. Thank you, Mr. Chairman.

I am humbled by the remarks from our majority leader, Senator Lott, as well as Senator Cochran and Congressman Wicker and Pickering.

Mr. Chairman and members of the committee, it is an honor for me to appear before you as nominee for the Tennessee Valley Authority Board of Directors. I thank the President for this nomination. I am grateful for the support of my sponsors, Mississippi's senior Senator Thad Cochran and Senate Majority Leader Trent Lott. I have been fortunate to have the constant encouragement and friendship of my Congressman and Chair of TVA's congressional caucus, Roger Wicker, as well as Congressman Chip Pickering.

I also want to express my thanks to staff members who have assisted in this process.

As a native of Tupelo, Mississippi, the histories of my family and TVA are intertwined, just as they are for millions of others all across the seven-State service area. As it has been mentioned, my father vividly remembers being among the thousands at Tupelo's Robin's Field in 1934 when President Franklin Roosevelt ceremoniously turned the switch illuminating the first electric light in the first city in the region to contract with TVA for its power.

Senator CHAFEE. I think Roosevelt was sitting in an open car. I can remember it clearly. The top was folded down and people didn't fully realize at the time how crippled he was, but he sat in the car the Senator from Tennessee was behind him. He threw some kind of a switch and everything started.

Mr. McCULLOUGH. Yes, sir, Mr. Chairman, that is the way it happened. My father remembers the speech the President delivered after that event. It was very historic.

My home town of Tupelo became known as the first TVA city and it is a designation that we still celebrate.

Just as Tupelo takes pride in its relationship with TVA, I take pride in my role with the TVA family, for I identify with TVA in its commitment to strong personal relationships, to reliable and affordable electricity, and to dedicated public service.

First, personal relationships. The TVA family prioritizes not only its internal relationships with employees and distributors, but also its external relationships with customers and Congress itself. I understand TVA's valuing personal relationships.

My faith in God is the anchor of my life. I am blessed with a wonderful family whom I love, and they have been introduced to you today. I treasure my friendships. Strong relationships require faith and support to thrive. I believe in the wisdom and feasibility of the TVA Act. If confirmed, I pledge to honor its principles of environmental stewardship, power generation, and development to serve the public interest. I respect TVA's relationships with you and your colleagues, and I will seek to fortify those relationships by listening to you and learning from you.

Second, electric power generation. TVA has a great product: reliable electric power generated, sold, and delivered by talented people to the consumer at the lowest feasible cost. Two-thirds of my professional life has been spent in private business. I know that the essence of business is producing, selling, and delivering a product which will meet the customers' needs. I do not have all the answers to the complex and critical issues facing the industry today, but I will work with you, as TVA's owners, toward ensuring a strong TVA for the next century.

Third, public service. The heart of TVA is public service. Certain obligations accompany this role, including accountability, a basic, but easily forgotten tenet of leadership.

As mayor of Tupelo and as a member of the Appalachian Regional Commission and the Community Development Foundation, I have learned how TVA's development projects have improved our region so that people, through their own initiative and industry, can attain a better quality of life. From personal relationships that serve the public interest to the business of electric power, to a commitment to public service, I am here with optimism and enthusiasm to serve.



I agree with one of Mississippi's most revered statesmen, the late Senator John C. Stennis, when he said, "Opportunity will never chase you around the block. Opportunity will never meet you on the street and force itself upon you. But opportunity is there for those who are willing and able to meet it halfway."

Mr. Chairman, members of the committee, members of the Senate, I am willing to serve as a director on the TVA Board. And if you deem me able, we will go to work to make good things happen. It would be an honor for me to join Skila Harris and Chairman Crowell on the Board.

Thank you for your consideration.

Senator CHAFEE. Thank you very much, Mayor McCullough.

Ms. Harris?

**STATEMENT OF SKILA HARRIS, NOMINATED BY THE PRESIDENT TO BE APPOINTED AS MEMBER OF THE BOARD OF DIRECTORS, TENNESSEE VALLEY AUTHORITY**

Ms. HARRIS. Let me begin by thanking Senator Thompson for taking time to be here this afternoon and for his generous introduction.

I also want to express my appreciation to you, Mr. Chairman, and the other members, for this opportunity to appear before you.

In preparing for this hearing, I have thought about your constitutional responsibility to judge the merit of nominees. I appreciate and respect the seriousness with which you carry out that responsibility. I can assure you that, if confirmed, my service as a TVA director will be undertaken with the same devotion to my statutory responsibilities. I will be a full-time director committed to making judgments and taking actions consistent with accountable management, fiscal responsibility, smart planning, and conscientious stewardship of natural resources, all in service to the Tennessee Valley.

I want to express my deep appreciation to the President and the Vice President for the opportunity they have given me to serve. This nomination is an honor for me and my family. My late father, Skiles Browning Harris, and my mother, Dorothy Harris—who is in Bowling Green beaming her support to me as well as my brother—my husband, Fred Graham, and my sister, Linda Harris, are both here in the audience.

All my entire family was born in the Tennessee Valley. My parents were born before TVA brought power to that region. I was raised on the vivid hardship stories of what life was like in the valley before electricity. However, the passage of time and my work in the energy business has added reality to those reminiscings that I was raised on.

I recognize the challenges facing TVA in many areas, but especially those posed by the emerging era of electric competition. In fact, I served as staff director—as was mentioned—of the Department of Energy's Tennessee Valley Electric System Advisory Committee. The committee included representatives from diverse groups who shared a common and sometimes contentious interest in TVA's future in a competitive environment.

I think the inclusive approach used during this process is a good model for TVA. Decisions made by TVA impact the lives of nearly 8 million citizens in the service area. It is important for TVA to un-

derstand that the citizens understand what TVA is doing and TVA needs to understand the interests and concerns of the citizen.

I see TVA as a corporate public servant dedicated to public good. In making the transition to a competitive market, the TVA Board has an obligation to make sure that the benefits of competition accrue to the citizens of the valley and that they have a safe, reliable, and environmentally sound source of electricity to sustain the economic health of the region and the quality of their lives.

The Board must also fulfill its responsibilities to manage the resources of Tennessee River Valley in a way that provides for flood prevention, year-round navigation, protection of public health, the environment, and recreational uses. The philosophy of the TVA Act dictates a fundamental balance across crucial resource management decisions.

Just as the challenges facing Congress today are different than those it faced at its beginning, the issues before TVA today are different and perhaps more complex than they were in the 1930's. The mission, however, is the same: to serve the region and the Nation for the greater public good. I hope to have the opportunity to work along with Chairman Crowell and Mayor McCullough as TVA continues to carry out its mission and meet today's new challenges.

Thank you very much.

Senator CHAFEE. Thank you very much.

Senator Lautenberg, do you have a statement you would like to make?

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG,  
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. I will try to be very brief, Mr. Chairman.

I did want to welcome Dr. Poje to this discussion and I congratulate the other two nominees for TVA. It was an excellent presentation.

I just want to say that during his tenure on the Chemical Safety and Hazard Investigation Board Dr. Poje has focused especially on reducing risks of accidents associated with the Y2K computer problems. He has convened an expert workshop on Y2K and chemical safety and participated in lots of the forums involving leaders from industry, insurance companies, regulatory agencies, and others. He has also worked with the Inter-Governmental Forum on Chemical Safety and Organization for the OECD to promote global remediation and contingency planning around Y2K problems. He has also been a board member on the scene of two of the Board's chemical accident investigations.

As one of the original two board members, I appreciate the work through the years it has taken to create this Federal agency from scratch.

Mr. Chairman, the Chemical Safety and Hazard Investigation Board has done a good job and they are finally getting some momentum because they finally got funding. It is hard to have an agency or board without any money.

The thing is moving and I am pleased to recommend Dr. Poje and hope that his confirmation will take place expediently.

Thank you very much.

Senator CHAFEE. Thank you very much.

We will now hear from Dr. Poje.

**STATEMENT OF GERALD V. POJE, NOMINATED BY THE PRESIDENT TO BE REAPPOINTED AS MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

Mr. POJE. Good afternoon, Mr. Chairman and distinguished members of the committee. Thank you very much, Senator Lautenberg, for that introduction.

I come here requesting your confirmation for my nomination to serve a full 5-year term on the Chemical Safety Board. Our board is an independent Federal agency with the important mission of ensuring the safety of workers and the public by preventing industrial accidents. We are not an enforcement or regulatory body, but a scientific investigatory organization.

Beyond the investigation of incidents, the Board is charged with the conduct of safety research. Additionally, the Board can advise on actions that can be taken to improve safety, and we are asked to recommend regulatory actions to public agencies, such as the USEPA and OSHA.

I am a specialist in toxicology, one of the technical qualifications specified for board membership in CSB's enabling legislation. I received my doctoral degree from New York University and then conducted research and developed curricula in toxicology and environmental sciences as a professor on the faculty of Miami University in Ohio.

Prior to joining the Chemical Safety Board, I directed international programs in public health for the National Institute of Environmental Health Sciences, serving as senior adviser to the director of NIEHS and the National Toxicology Program.

A primary function of the Chemical Safety Board is to investigate significant chemical incidents for the purposes of preventing their recurrence. I have worked closely with fellow board members and senior staff to complete three investigative reports: the Sierra chemical explosion involving a manufacturing institution for explosives, the nitrogen asphyxiation incident at Union Carbide, and the Herrig Brothers BLEVE, a boiling liquid explosive vapor explosion.

In March 1998 I served as the board member in Louisiana at the Sonat Exploration explosion and fire that claimed four lives. That investigation is nearing completion.

I also served as the lead board member on the investigative team examining the Tosco Refinery incident that killed four workers and seriously injured a fifth worker earlier this year. Our board has just completed a board of inquiry and public hearing in Martinez, California regarding that incident. We are nearing the end of a 30-day open request for additional evidence, a procedure that occurs as a prelude to completion of investigations.

While the Board seeks to promote prevention through the primary mechanism of an incident investigation, the Agency is also directed to conduct prevention research toward the same purpose. I have worked with senior staff and organized a major meeting earlier in 1998, the first major multistakeholder meeting we have had as a board on the issue of chemical accident prevention research.

Since its inception, I have overseen the Board's efforts on reducing the risk of incidents associated with the Y2K computer prob-

lems. The Y2K problem is significant in the chemical manufacturing and handling sector, posing unique risk to business continuity and to worker and public health and safety—sometimes out of proportion to the size and staffing of the businesses.

Many facilities have internal and external dependencies on automated equipment. In the past week, leading chemical manufacturers in Charleston, West Virginia—including Rhone-Poulenc, DuPont and Monsanto Co.—announced plans to temporarily halt operations on New Year's Eve as a precaution against accidents.

At the request of Senators Bennett and Dodd of the U.S. Senate Special Committee on Y2K, our board convened an expert workshop on chemical safety on this issue. This culminated in the release of the Chemical Safety Board's first research report and recommendations. As an outgrowth of that endeavor, I have testified twice in the U.S. Senate regarding chemical safety and Y2K, the first request for our new board to provide technical safety information to this legislative body.

The Board has worked with EPA and seven trade associations of chemical handling industries to produce and distribute a special guidance document for small and mid-sized enterprises to prevent untoward incidents associated with the Y2K problem.

I have sent copies of our report to the Governors of the States and territories requesting their attentiveness to this problem. With the Senate's special committee, the Board promoted a special focus on chemical safety at the President's Council on Y2K. Tomorrow there will be a press briefing on that effort.

In summary, our board has enormous promise for the health and safety of Americans, as indicated by the impact over our very brief, less than 2-year history. I believe that I have made significant contributions the last 2 years, yet much more work remains to be done over the next 5 years if the CSB is to reach its full potential.

I would consider myself privileged and honored if this committee concurs with the President's confidence in my qualifications and allows me to become part of that endeavor.

Thank you.

Senator CHAFEE. Thank you very much.

The two obligatory questions I will ask of all three of you: Are you willing, at the request of any duly constituted committee of Congress, to appear in front of it as a witness?

Mr. McCULLOUGH. Yes, I am, Mr. Chairman.

Ms. HARRIS. Yes, I am, sir.

Mr. POJE. Yes, Mr. Chairman.

Senator CHAFEE. Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

Mr. McCULLOUGH. No, sir.

Ms. HARRIS. No, Mr. Chairman.

Mr. POJE. No, Mr. Chairman.

Senator CHAFEE. Mayor McCullough, what is the population of Tupelo?

Mr. McCULLOUGH. It is 36,000 people, Mr. Chairman.

Senator CHAFEE. And I presume your position as mayor is a full-time job?

Mr. McCULLOUGH. It is, yes, sir.

Senator CHAFEE. If you are confirmed in this position as a member of the TVA Board, will you continue as mayor?

Mr. McCULLOUGH. If the Senate confirms me, sir, upon taking the oath of office to serve on the Board of TVA, I would submit a letter resigning as mayor.

Senator CHAFEE. It is not clear to me whether being a member of the Board is full-time or not, but I guess it is pretty much a full-time job.

Mr. McCULLOUGH. Mr. Chairman, it is. And I would be willing to devote full-time service.

Senator CHAFEE. How about you, Ms. Harris?

Ms. HARRIS. Yes, sir.

Senator CHAFEE. Last year, this committee learned at the last minute of a proposal to refinance TVA's Federal Financing Bank debt. That proposal was not subject to any hearing or public scrutiny. It was not brought to the attention of this committee, which has oversight of TVA. Instead, it was inserted into the Omnibus Appropriation Bill and became law.

As a result of that proposal, TVA will save itself nearly \$1 billion over the next 10 years. The taxpayer, however, will lose nearly \$1 billion over the next 10 years.

I must say, as chairman of the committee with jurisdiction over TVA, I would like some assurance from each of you that TVA will bring its proposals to this committee for scrutiny. You have both spent years in public service and understand the importance of following the legislative procedure for the benefit of the public. I hope you will agree that we should not repeat the process of last October.

I would appreciate your assurances on that.

Mr. McCULLOUGH. Mr. Chairman, if I am confirmed, I would make every effort to work with you and the members of this committee and provide all information relevant to TVA in advance.

Senator CHAFEE. Ms. Harris?

Ms. HARRIS. I certainly agree with that, sir. And I think that this is an important commitment I would be willing to make as a new board member.

Senator CHAFEE. Thank you.

Last year, the TVA chairman and the TVA inspector general have engaged in a very public and damaging dispute over certain credit card charges and who has the authority to do what. The dispute was cataloged in a GAO report issued at the request of Senator Thompson, who I think spoke for all of us when he said that the matter had been "badly mishandled".

I want to ask both of you the following questions: If confirmed, will you work to ensure the independence of TVA's inspector general and support legislation to that end?

Mr. McCULLOUGH. Mr. Chairman, I support the independence of the inspector general at TVA. Yes, sir.

Ms. HARRIS. Yes, sir. I think that is an important component to accountability.

Senator CHAFEE. We have had some difficulty, as I understand it, with some extravagances down there and \$56,000 of private plane bills and \$11,000 of hotel bills that have come to light as a result of the GAO report. It seems to me that we all must remem-

ber—as I think both of you said in your opening statements—that this is a public service. As public servants, I think all members of the Authority should act in that fashion.

Mr. McCULLOUGH. Yes, sir, Mr. Chairman.

Senator CHAFEE. Dr. Poje, I understand there are some 60,000 accidental chemical releases in the United States.

Mr. POJE. That is one estimate that has been given, Mr. Chairman.

Senator CHAFEE. That seems so high, but nonetheless, how do you prioritize which ones you are going to investigate?

Mr. POJE. That is a crucial issue, Mr. Chairman. The Board has tackled that issue most recently. In fact, we have a team organized that had a major meeting yesterday to discuss this very important issue of how you select your highest priority incidents for investigation.

We anticipate that we will have a draft proposal on that matter available and subject to a stakeholder discussion. We hope to bring in representatives from the industry, from labor unions, from environmental organizations, and from regulatory bodies to help us be guided by the best wisdom possible on utilizing resources that are insufficient for investigating every fatality or every serious incident. We want to choose the ones that provide us with the greatest leverage potential for preventing recurrence across the broadest spectrum of the industry.

The incidents we have examined so far are leading us to the conclusion that we have to have some stronger criteria for the selection process.

Senator CHAFEE. Thank you very much.

Senator BAUCUS?

Senator BAUCUS. Thank you, Mr. Chairman.

We all wish you well, obviously. But I must say that my impression of TVA over the years is an entity that is a little loose. It is not of the highest reputation. It is fraught with personnel problems or management problems or expense problems. It just does not seem to be a top-flight outfit. That is just my impression.

I am wondering the degree to which any of you have the same views. Are you aware of the problems that have been in the press or the GAO reports, et cetera?

Ms. HARRIS. Certainly, as a person interested in the Tennessee Valley, I am aware of what has been in the public domain. But also I think what gets less attention is the record of effectiveness that TVA has in the actual operation of its power industry.

Obviously, there are avenues to improve almost anything. But I think one of the things TVA needs to do is to make sure that it is focused on its business, that it demonstrates that it is accountable to the people in the Valley and the people of the Nation. But I think one thing that generally is recognized is that its actual operations are run well, that it has a good safety record in recent years. I think that is the most important area.

Senator BAUCUS. Why did you take this job? Is it something you sought? Did somebody come to you? I am curious what happened here.

Ms. HARRIS. Sir, I was born and raised in the Tennessee Valley. I have spent most of my professional career in the energy business.

It is very seldom that you have an opportunity to serve a region that you care very deeply about in a field that you obviously have a great deal of interest in. It really is an opportunity for me to marry those two interests in my life. I actually think it is a wonderful opportunity and I am very excited about it.

Senator BAUCUS. I can appreciate that, but given some of the problems at TVA, what can you say to assure us—other than words—that a year from now we are not going to hear about these problems nearly as much as we have?

What are your goals? What do you hope to accomplish there? Is there some reorganization scheme? Is there something you have in mind to address TVA so that it is run even more efficiently than it is—in your judgment—or in my judgment so that it is run efficiently? Other than just noble words, what can you point to?

Ms. HARRIS. I think that if you focus on the mission of the Agency, if you attend to good, sound management practices, if you are keen on fiscal accountability and responsibility, I think it is just simple, basic, good business, and sound judgment. I think that is an important contribution I can make to the organization. I think it would go miles to help it.

Mr. MCCULLOUGH. Senator, you raise a good point. In response, I would point out that TVA 2 years ago initiated a 10-year financial improvement plan and it is already paying off with some results. Part of that was congressional action to try to work down the debt that we currently have. It seems to me that that plan has put a focus on specific measurements and we are more precisely measuring our performance in debt management and reduction. At the same time, the plan is intended really to lower the rates by 2007.

If we can be that precise in taking a look at the overall management and operation of the Agency at every level, at providing stewardship for the 652-mile Tennessee River, in our outreach to the communities and economic and community development—just increase the focus—coordinate that with a more effective communication with you and with your colleagues in the Congress. In recent months, I think it has been very difficult for the Agency to communicate as effectively as we might have if we had had a full board.

Chairman Crowell is one, and he has been stretched awfully thin trying to direct this agency. I would do what I could to more effectively communicate.

Senator BAUCUS. I do not know the answer to the next question, but the question is: Do you know whether TVA has a higher nuclear power debt reduction component as a percentage of gross revenue or profits, compared with the private industry average? Do you have any idea?

I ask the question because I know there are some nuclear power amortization costs after you pay it off and it reminds me of a similar problem in the northwest—huge costs—where the officials decided to build these big nuclear power plants. The huge cost is transferred to the taxpayer and the ratepayer.

Frankly, it is a bit irritating because this was a decision by a public servant unaccountable to anybody, but who made decisions that reeked havoc upon ratepayers in the region. TVA is basically a public entity.

I am just wondering what the public power administration ratio of nuclear power amortization costs to gross revenue or profits is compared with the private sector average.

Mr. McCULLOUGH. Senator, I do not know a comparative ratio between TVA's debt service to the nuclear part of our generation compared to investor-owned utilities. But I would point out that since 1959 TVA has not been supported with any taxpayer dollars.

Senator BAUCUS. After \$1 billion.

Mr. McCULLOUGH. The refinancing plan that Congress approved—but other than that, there has not been any congressional appropriation to fund the power generation part of TVA's business.

Senator BAUCUS. I appreciate that. But still the ratepayers pay for the mistakes.

Mr. McCULLOUGH. You are correct, yes, sir.

Senator BAUCUS. I will stop here, but I encourage you—I can tell you are very dedicated public servants. But I am encouraging you to get to the bottom of this thing so that TVA has a stellar reputation.

Thank you.

Senator CHAFEE. Thank you.

Senator Thompson?

Senator THOMPSON. Thank you very much, Mr. Chairman.

I thank you again for allowing me to participate here today.

Listening to my colleagues, I sometimes feel like the father of a child who misbehaves. I know they need a good spanking, but I hate to see anybody else jump on them.

[Laughter.]

Senator THOMPSON. I think that a couple of the points that have been made need to be reiterated and maybe put in a little bit of focus.

You are coming on the Board at a unique time and you are going to be facing some unique challenges—challenges from the outside in terms of deregulation and where TVA fits into all this. Congressman Bryant is doing good work over on the House side. He and his colleagues are coming up with ideas and potential solutions—people who still think the taxpayers are paying for TVA.

While I certainly am sympathetic with going through the regular process, the problem with last year and the refinancing of the FFB debt was that the people in the valley were going to be the only people in America paying for flood control and navigation on major waterways. The Federal Government does not have any problem taking care of other parts of the country, but they were going to step back away from that obligation down in this part of the country and this part of the country alone.

So this refinancing is not something where the money is going to the ratepayers' benefit down in the area, it is basically going to maintain TVA support for the non-power programs which have been zeroed out up here. And the land and water stewardship programs in other parts of the country the Federal Government seems to have no problem with.

But that is always going to be there. It has always been there. The detractors—the people who have legitimate concerns—but recently you have seen in addition to that more criticism concerning



the challenges from the inside because there have been some self-inflicted wounds down there.

We have talked about them privately. When people constantly read about consultants and public relations expenses and foreign travel and entertainment and all that, you had better well be sure that they can be justified. TVA in many respects is a unique entity, but it has less oversight than almost any other entity. Some call it a governmental entity, some call it a quasi-governmental entity. The ratepayers really have no control over it. The States certainly do not. The Federal Government—especially now that we do not have the purse strings of the non-power funding—seems to have less and less oversight.

So it makes it even more important that board members are very, very careful about their responsibilities. It really increases your responsibilities, I think, because of that situation.

The last controversy down there with respect to the inspector general—in the scheme of things, maybe that was not a tremendously important thing in a lot of people's eyes, but it was unseemly and it added on to a lot of other questionable things. The Board did not acquit itself well there at all.

I hope we have learned that this inspector general needs to be appointed by the President, not the TVA Board, an inherent conflict of interest there. We have introduced legislation to that effect. Hopefully, we will get your support with regard to that. The inspector general needs to be removable by the President, not by his boss or the chairman of the TVA Board.

All those things are going on now and they are up in the air at a time when you are coming on board. So it makes it even more important that each of you exercise your own independent judgments. You are both professional people. You are accomplished in your own histories and your professional lives. I know you have exercised your independence before.

This is no reflection on anyone else, but the tendency has been in times past to have a strong chairman and a couple of other people who wander in and vote but perhaps did not give it full-time treatment. This is a full-time job.

I understand both of you realize and understand that it is a full-time job.

Again, I agree with Mr. Crowell on many things and disagree with him on some things. It is no reflection on him. But the chairman has no authority that you do not have. He maybe able to do a few ministerial things, but nothing that amounts to anything—as I can see—under the Act.

Do you agree with that?

Mr. McCULLOUGH. Yes, sir.

Ms. HARRIS. Yes, sir.

Senator THOMPSON. You are there as full board members with equal authority and you need to apply your own good judgment, business, and common sense to that job.

With regard to the outside challenges, I would be interested in your vision as to the future of TVA in a deregulated environment. There seems to be a consensus that there are big problems with Memphis and Knoxville.

Have you all had a chance to look at that? Where do you see us going there? Where do we need to go with regard to this new environment we are going into, the attempt to reach a consensus and these people who seem to not be able to become a part of that consensus?

Can each of you comment on that?

Mr. McCULLOUGH. Senator, I only have a broad understanding of this title that is now in Congress. I would say that it would be incumbent upon me to reach out to every distributor throughout the 80,000 square miles and to see what resources TVA can bring to bear to make those communities—whether Memphis, Knoxville, a community in Kentucky, or Alabama, or Mississippi—we must work with the people at home to create an environment that would stimulate private capital investment, job growth, and a higher quality of life.

I think that is our responsibility, to maximize the impact that the resources of TVA can bring to a community, in addition to having a power rate that is competitive in a world economy. We do not just compete throughout America. We have to have power rates that make our products and services competitive with those in Europe or Asia.

So I think we need to take a really broad look at the impact as far as power rates are concerned, but we must work with the 159 distributors in those communities and bring all the resources we can to bear to create successful communities throughout the valley. If we are able to do that—and if we are able to play our role in progress in those communities—it seems to me that TVA will have a bright future in the next century.

Ms. HARRIS. I have been pleased by the flexibility that TVA has expressed for some of its contractual relationships with the distributors. I think that the organization has already recognized that in a competitive environment it is going to have to have different types of relationships built on different qualities than in the past.

I think in particular a contribution TVA can make in a competitive environment is that it has a requirement to serve everyone. We may need a model for how in a competitive environment you do have universal service. In the airline industry, we have seen that some communities lost airline service when there was deregulation. We do not have that luxury for electricity.

The American public has come to expect not only electricity, but reliable, low-cost electricity. So I think that TVA is going to be an excellent model for the rest of the country to learn from about how you run a utility in an environment that is competitive, but yet providing universal service. I think that is another component. I think we must look at our distributors and over them greater flexibility, but I think it is a great opportunity for TVA to shine in a competitive environment.

Senator THOMPSON. Both of you have obviously given that substantial consideration. I think you are going to make excellent additions to the Board. It is not only an opportunity for TVA, but it is an opportunity for you to build a legacy there to kind of turn the corner here and get this thing back up to where it needs to be.

They are doing a lot of good things in a lot of good areas down there. We have not sold the positive part of this very well. I think

both of you will be Ambassadors for the good news, but also be willing to face up to the not-so-pleasant news and do something about it.

I congratulate you and thank you.

Mr. McCULLOUGH. Thank you, Senator.

Ms. HARRIS. Thank you, Senator.

Senator THOMPSON. Thank you, Mr. Chairman.

Senator CHAFEE. Thank you, Senator.

Now it is my intention to have a vote on reporting out these nominations as soon as reasonably possible, so we will move along with considerable speed.

Mr. McCullough?

Mr. McCULLOUGH. Mr. Chairman, if I could ask for 1 minute of personal privilege, my family has been presented, and Laura, my wife, is also with us, and our sons Vance Hudson and Glenn Thomas. I just wanted to recognize them.

Senator CHAFEE. We are delighted they are here. We are very, very pleased. Certainly, they have a lot to be proud of in their father and husband.

Mr. McCULLOUGH. Thank you, Mr. Chairman??

Senator CHAFEE. Thank you all very much.

That concludes this hearing. We will reconvene in a few minutes to examine the issues on the TVA addressed in the bill offered by Senator McConnell.

[NOTE: The proceedings of the hearing held by the Committee on Environment and Public Works on bill S. 1323 are published separately.]

[Whereupon, at 4:01 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Additional statements submitted for the record follow:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Mr. Chairman, I am pleased that we are having today's nomination hearing for the TVA positions as well as Dr. Gerry Poje for the Chemical Safety Board. Dr. Poje testified at my Subcommittee Hearing on Y2K and I am glad he has been reappointed to the Board.

I am also pleased we are having this hearing on the Tennessee Valley Authority. TVA is a subject within my Subcommittee, and unfortunately due to so many pressing issues we have been unable to hold an Oversight hearing before now.

Like many in Congress, I believe the monopoly of the TVA is a dinosaur in today's electric power business. Due to actions by State legislatures and Congress, the electric marketplace is changing at a rapid pace. While we may not have reached consensus on how best to proceed, action by the States or Congress is going to lead toward deregulation of the electric industry. With all other aspects of the electric industry changing, I believe the time has come for TVA to change as well.

In light of the deregulation debate, I believe TVA's government protected monopoly has outlived its usefulness. For too long, problems at TVA have been ignored or swept under the carpet -although I am not sure how it is possible to ignore a \$28 billion dollar debt. The debt refinancing plan which was attached to last year's Omnibus Appropriations Act was wrong and should not have occurred. In bypassing the committee of jurisdiction, it is estimated that it cost the taxpayers over \$1 billion dollars. These actions have simply become too large for Congress or the American people to remain silent. Created during the New Deal when only 15 percent of rural America enjoyed electricity, it is time for the reign of this bloated bureaucracy to come to an end. I believe the legislation before the committee today is a step in the right direction and long overdue.

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH  
OF VIRGINIA

Mr. Chairman, as the only member of the Environment and Public Works Committee who can claim state interest in the Tennessee Valley Authority (TVA), I am pleased to support Ms. Skila Harris and Mayor Glenn McCullough to the TVA Board of Directors.

TVA's importance to Virginia is unmistakable. Fifteen counties in Southwestern Virginia make up a large portion of the Tennessee River Watershed. Virginia is the home to the headwaters of five tributaries of the Tennessee River. These include the Powell River, Clinch River, North Fork Holston, South Fork Holston and Beaver Creek.

The first dam that TVA ever built, Norris Dam, continues to provide flood control and recreation opportunities in Southwestern Virginia. Both the Clear Creek and Beaver Creek Dams are located in Washington County, Virginia. Although neither produces hydropower, they are vital to the community for both flood control and recreation.

TVA continues to serve Powell Valley Electric Cooperative with wholesale power. Over 7000 consumers enjoy affordable rates throughout Lee and Scott counties.

In short, TVA is an important and valued presence in Virginia, hence my interest in assuring quality men and women fill its Board of Directors.

I am confident that Ms. Harris and Mayor McCullough will fight to assure that Virginians as well as the 8 million customers being serviced by TVA will continue to receive quality service at affordable rates. I am pleased to support their nominations.

Thank you, Mr. Chairman.

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STATEMENT OF HON. ROGER F. WICKER, U.S. REPRESENTATIVE FROM MISSISSIPPI

Mr. Chairman, members of the Committee, it is my honor to come before you today to speak on behalf of one of my constituents, Mayor Glenn McCullough of Tupelo, Mississippi, and in favor of his nomination to the Board of Directors of the Tennessee Valley Authority. As Chairman of the Congressional TVA Caucus, I believe Glenn McCullough will make an excellent member of the Board and will have a dramatic and positive influence on this agency.

To me, Glenn McCullough is many things—my friend, my hometown Mayor, my neighbor. I have known Glenn, his wife Laura and his two sons, all of whom are here today, for many years. He and I have worked closely on a variety of issues and projects important to our community and the State of Mississippi. His reputation is unblemished, and he is held in the highest esteem first and foremost for his personal characteristics, his impressive achievements, and ability to work with people from all walks of life.

Glenn's experience, background, knowledge, and work ethic make him uniquely qualified for this position. As the Mayor of Tupelo, and formerly Mississippi's representative to the Appalachian Regional Commission, he has been actively involved in both the State and Federal legislative processes. In these capacities, Glenn has worked with TVA and other Federal and State agencies in a bi-partisan manner which has been both constructive and tremendously effective for this region of the country. From his service with the Appalachian Regional Commission, Glenn has a keen understanding of what is required to achieve results in a multistate setting.

He understands the role of today's TVA, its past, and its future, from a public policy perspective as Mayor of the City of Tupelo, which holds the distinction of being the first city to contract with TVA to supply electricity. Glenn recognizes the deep-seated relationship between TVA and its wholesale distributors, whether they be municipalities or electric power associations.

As a businessman, Glenn McCullough knows firsthand the positive effect that affordable and reliable energy has on economic development, job growth, and the subsequent benefits to the quality of life for a region which has historically been underdeveloped.

The depth and breadth of Glenn's experience make him an ideal candidate to lead TVA in a positive direction. His commitment and dedication will be of invaluable service to the 8 million customers in the seven-State TVA region. His willingness to listen and cooperate with Members of Congress from both sides of the aisle will be increasingly important as the debate over electricity restructuring moves forward.

I wholeheartedly support the nomination of Glenn McCullough, Jr., to the Board of Directors of the Tennessee Valley Authority, and respectfully urge his swift approval.

Mr. Chairman, thank you for the opportunity to address this Committee today.

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STATEMENT OF HON. BILL FRIST, U.S. SENATOR FROM THE STATE OF TENNESSEE

Mr. Chairman, it is an honor to introduce Ms. Skila Harris to the Environment and Public Works Committee as a nominee for Director of the Tennessee Valley Authority. I have known Ms. Harris for a number of years, and I have enjoyed the opportunity to work with her when she was an assistant to both the Vice President and Mrs. Gore, as well as during her tenure at the Department of Energy.

Mr. Chairman, as you well know, the Tennessee Valley Authority has seen its fair share of controversy over the past several years. Moreover, having only one director in place over the past several months has placed a strain on TVA's management. I am sure that the Committee is well aware of the very public dispute between the current Chairman and the TVA Inspector General.

Adding two new directors to TVA's board is essential to TVA, and will increase the accountability of TVA to the people of the Valley. In addition, I personally believe that expanding the Board from three full-time members to nine part-time members, and a full time Chief Executive, will better allow the Board to address TVA's future, both in terms of accountability and competitiveness.

As you well know, TVA faces serious problems and challenges including over \$26 billion in debt, an uncertain future in a deregulated energy market, and continued challenges in land and water management. As we look to address these problems and face the issues of the future, operations which are in the best interest of the rate payers must remain the highest priority.

TVA has met tremendous success over the past, and is viewed as more than just a benevolent hand providing economic opportunity and security to a once-depressed region. TVA is now an integral part of the region's identity. In the minds of Tennesseans, TVA is credited with bringing the region out of poverty, and opening the Tennessee River system to commercial navigation.

TVA is at a crossroads. TVA needs, and the citizens of the Valley deserve, the best possible leadership over the next 10 years.

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STATEMENT OF GLENN L. McCULLOUGH, JR., MAYOR, CITY OF TUPELO, MISSISSIPPI, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE TENNESSEE VALLEY AUTHORITY

Mr. Chairman and members of the committee, it is an honor for me to appear before you as a nominee for the Tennessee Valley Authority Board of Directors.

I thank the President for this nomination. I am grateful for the support of my sponsors, Mississippi Senior Senator Thad Cochran and Senate Majority Leader Trent Lott; and I have been fortunate to have the constant encouragement and friendship of my Congressman and Chair of TVA's Congressional Caucus, Roger Wicker, and Congressman Chip Pickering.

As a native of Tupelo, Mississippi, the histories of my family and of TVA are intertwined—just as they are for millions of others across the seven State TVA service area. My father vividly remembers being among the thousands present at Tupelo's Robin's Field in 1934 when President Franklin Roosevelt ceremoniously turned the switch illuminating the first electric light in the first city in the region to contract with TVA for its power supply.

My hometown of Tupelo became known as the "First TVA City," a designation we still celebrate.

And just as Tupelo takes pride in its relationship with TVA, I take pride in my role in the TVA family; for I identify with TVA in its commitment to strong personal relationships; reliable, affordable electricity; and dedicated public service.

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FIRST . . . . PERSONAL RELATIONSHIPS

The TVA family prioritizes not only its internal relationships with employees and distributors, but also its external relationships with customers and Congress itself. I understand TVA's valuing personal relationships.

My faith in God is the anchor of my life. I am blessed with a wonderful family whom I love (introductions).

I treasure my friendships. Strong relationships require faith and support to thrive. I believe in the wisdom and feasibility of the TVA Act. If confirmed, I pledge to honor its principles of environmental stewardship, power generation, and development to serve the public interest. I respect TVA's relationships with you and your

colleagues, and I will seek to fortify those relationships by listening to you and learning from you.

#### SECOND . . . ELECTRIC POWER GENERATION

TVA has a great product: Reliable electric power generated, sold, and delivered by talented people to the consumer at the lowest feasible cost.

Two-thirds of my professional life has been spent in private business; and I know that the essence of business is producing, selling, and delivering a product which will meet the customers' needs. I don't have all the answers to the complex and critical issues facing this industry; but I will work with you, as TVA's owners, towards ensuring a strong TVA for the twenty-first century.

#### THIRD . . . . . PUBLIC SERVICE

The core of TVA is public service. Certain obligations accompany this role, including accountability—a basic, but easily forgotten tenet of leadership.

As Mayor of Tupelo and a member of the Appalachian Regional Commission, I have learned how TVA's development projects have improved our region so that people, through their own initiative and industry, can attain a better quality of life.

From personal relationships that serve the public interest, to the business of electric power, to a commitment to public service, I am here with optimism and enthusiasm for this opportunity to serve.

I agree with one of Mississippi's most revered statesmen, the late Senator John C. Stennis, when he said,

"Opportunity will never chase you around the block. Opportunity will never meet you on the street and force itself upon you. But opportunity is there for those who are willing and able to meet it halfway."

I am willing to serve as a Director on the TVA Board; and if you deem me able, we will go to work to make good things happen.

It would be an honor for me to join fellow nominee, Skila Harris, and Chairman Crowell on the board.

Thank you for your consideration.

**UNITED STATES SENATE****COMMITTEE ON ENVIRONMENT  
AND PUBLIC WORKS**

ROOM 410 DIRKSEN BUILDING WASHINGTON, DC 20510

**INFORMATION****REQUESTED OF PRESIDENTIAL  
NOMINEES**

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

Name of Nominee: Glenn T. McCullough, Jr.Business Address: City Hall, 117 N. Broadway StreetTupelo, MS 38801

( )

Business Phone: (662)841-6513Home Address: 1719 McCullough BoulevardTupelo, Mississippi 38801

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Home Phone: (662) 842-6657

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UNITED STATES SENATE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: McCullough Glenn Long, Jr.  
(Last) (First) (Middle)

Position to which  
nominated: Board of Directors, Tennessee Valley Authority

Date of Nomination: September 23, 1999

Date of birth: 18 12 '54 Place of birth: Tupelo, Mississippi  
(Day) (Month) (Year)

Marital status: married Full name of spouse: Laura White McCullough

Name and ages  
of children: Vance Hudson McCullough age 13 years

Glenn Thomas McCullough age 10 years

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	<u>Mississippi State University</u>	<u>'73-'77</u>	<u>B.S.</u>	<u>1977</u>

**Employment  
record:**

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

Mayor, City of Tupelo, Mississippi 7/97 - present

Candidate for Mayor, City of Tupelo, MS 3/97 - 7/97

Director, Mississippi Office, Appalachian Regional Commission  
Tupelo, MS 10/93 - 3/97

Manager, Mississippi Department of Economic and Community Development  
Field Office, Tupelo, MS 10/93 - 3/97

## Employment record—continued

Manager, Vice President, President - McCullough Steel Products,  
Incorporated - Tupelo, MS 10/81 - 10/93  
Sales Representative - CIBA-Geigy Corp. - McAllen, Texas  
8/78 - 10/81

Honors and  
awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Elder Statesman, Mississippi State University 1977,  
Outstanding Young Leader of Tupelo, 1993 by the Tupelo  
Jaycees

## Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
<u>North Mississippi Industrial</u>	<u>Vice President</u>	<u>1999</u>
<u>Development Association</u>		
<u>United Way of Lee County</u>		<u>1998 to present</u>
<u>Mississippi Municipal League</u>	<u>Executive Committee</u>	<u>1997 to present</u>
<u>Mississippi Economic</u>		<u>1993 to present</u>
<u>Development Council</u>		
<u>Community Development Foundation</u>	<u>Board of Directors</u>	<u>1982 to present</u>
<u>Tupelo Kiwanis Club</u>	<u>President '91-'92</u>	<u>1982 to present</u>

## Qualifications:

State fully your qualifications to serve in the position to which you have been named.

Please note attachment

Qualifications:

My professional life began in the private sector in corporate sales and marketing then a twelve year tenure in small business

I know first hand many of the challenges facing business and industry and have gained valuable experience in community and economic development through work with the Community Development Foundation, Mississippi Department of Economic and Community Development and the Appalachian Regional Commission

Today I am privileged to serve as Mayor for the people of Tupelo, Mississippi, the first TVA city.

In corporate and small business, community and economic development, and government, the Tennessee Valley Authority is a valuable partner.

These qualifications, I respectfully submit will enable me to work with you for the people we serve.

## Qualifications—continued

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Future  
employment  
relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No; however, I may pursue public service opportunities in Tupelo, or within the State of Mississippi and I may in some fashion reassociate with my family business, McCullough Steel Products, Inc.

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Not applicable

**Financial  
Statement.**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None

2. Are any assets pledged?

Yes, Personal residence pledged as security for home mortgage.

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

I own stock (16% of outstanding shares) in McDouglough Steel Products, Inc., a distributor of industrial piping materials that could possibly do business with companies that have a contractual relationship with TVA. If confirmed, I will divest myself of this stock.

My sons own stock in Southern Company, an investor-owned utility. Likewise, if confirmed, they will divest themselves of this stock.

I own stock in MCI Worldcom. If confirmed I will recuse myself of any matters requiring Board action involving MCI Worldcom.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items

I will divest myself of any interest that could pose a conflict or  
recuse myself to avoid the appearance of a conflict.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

Please refer to letter of September 24, 1999 by William L. Osteen,

Designated Agency Ethics Official Tennessee Valley Authority

**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

Friends of Glenn McCullough, Mayoral Campaign - \$10,000 1997

Fordice for Governor Campaign - 1991 volunteer

Roger Wicker Campaign - 1987, 1994 volunteer, telephone bank

Thad Cochran Senate Campaign - 1990 volunteer door-to-door

Trent Lott Senate Campaign - 1988 volunteer

Jack Reed Campaign for Governor - 1987 volunteer

Mississippi Republican Party - 1987 to present

Lee County Republican Club member

**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Glenn's Notes, regular column in Building Mississippi, Appalachian

Regional Commission quarterly newsletter - '93 - '97

Fordice For Governor, editorial opinion published in the Northeast

Mississippi Daily Journal - 1995

Back To The Future, column, published in the Northeast Mississippi

Daily Journal - 1994

**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

Additional matters—continued

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2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

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AFFIDAVIT

Glenn T. McCullough, Jr. ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 29<sup>th</sup> day of September, 1999.

[Signature]  
Notary Public



My Commission Expires: May 31, 2002



*Glenn L. McCullough, Jr.*

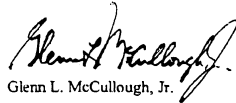
The Honorable John H. Chafee  
Chairman, Committee on Environment  
and Public Works  
SD-410 Dirksen Senate Office Building  
Washington, D.C. 20510-3902

Dear Mr. Chairman:

As nominee for the Tennessee Valley Authority (TVA) Board of Directors, 5 U.S.C. app. § 101(b)(1) and C.F.R. § 2634.606 require me to update my financial disclosure report by informing the Committee of any outside earned income or honoraria received up through the period ending no more than five days prior to the commencement of my hearing.

This is to inform you that I have received no outside earned income or honoraria during this period, other than my salary as Mayor of Tupelo, Mississippi (\$63,352 per year).

Sincerely,

  
Glenn L. McCullough, Jr.

cc: Mr. William L. Osteen  
Associate General Counsel and  
Designated Agency Ethics Official  
Tennessee Valley Authority  
400 West Summit Hill Drive, ET 11A  
Knoxville, Tennessee 37902-1499

Mr. Stephen D. Potts  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, D.C. 20005-3197



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1499

SEP 24 1999

FEDERAL EXPRESS

Mr. Stephen D. Potts, Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, D.C. 20005-3917

Dear Mr. Potts:

I have reviewed and approved the enclosed financial disclosure report filed by Glenn L. McCullough, Jr., nominee for the Tennessee Valley Authority Board of Directors. His report discloses no conflict of interest under applicable laws and regulations.

He has committed, if confirmed, to take the following actions:

1. He will resign from his position as Mayor of Tupelo and from the boards of the North Mississippi Industrial Development Association, the Mississippi Municipal League, and the Community Development Foundation of Tupelo. For one year after his resignation, he will avoid participating on behalf of TVA in matters affecting these entities, except matters in which a reasonable member of the public would not question his impartiality.
2. He will arrange for his sons to dispose of their Southern Company stock in order to avoid any potential issues, including perceptions by the public or the Senate confirmation committee, 18 U.S.C. § 208, and the TVA Act Section 2(f) prohibition on directors owning utility stock. Unlike Section 208, Section 2(f) does not specify whether it applies to interests of a minor child (and we are not aware of any opinion interpreting whether it does so apply), but after we discussed the various potential issues with Mr. McCullough, he readily agreed to avoid them by arranging for disposal of the stock.

Mr. Stephen D. Potts  
Page 2

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3. During his TVA term, he will not actively engage in any other business or receive any outside earned income, nor will he serve in any outside position unless allowed by law and applicable policy.
4. He will not participate in any TVA matter affecting a financial interest of his, of his spouse, or of his minor children (or of any entity with which he is serving, as allowed, as officer, director, trustee, general partner, or employee, or with which he is negotiating or has any arrangement concerning prospective employment) unless such interest is exempt or waived under Section 208 or unless he divests the interest.

Sincerely,



William L. Osteen  
Associate General Counsel and  
Designated Agency Ethics Official

Enclosure

cc: The Honorable Glenn L. McCullough, Jr.  
1719 McCullough Boulevard  
Tupelo, Mississippi 38801

---

RESPONSES OF GLENN L. MCCULLOUGH TO ADDITIONAL QUESTIONS FROM SENATOR  
INHOFE

*Question 1:* Last year, my subcommittee dealt with the issue of Ozone/Particulate Matter standards. At that time, TVA Chairman Craven Crowell testified TVA compliance costs would be in the billions. TVA is now close to bringing one nuclear facility on-line, yet still has other—facilities in a dormant state. First, I would like to know what you intend to do with these clean burning facilities in light of the enormous costs facing TVA?

Response. To respond to this question, I have consulted with the Tennessee Valley Authority. TVA has informed me that there are no immediate plans to complete any nuclear facility or to restart Browns Ferry Unit 1. TVA is conducting a study to determine the need for new generation capacity to meet the projected demands of fine

service area. Part of this study, I am told, will focus on the feasibility of bringing nuclear generation on line.

Obviously, this issue involves billions of dollars, immense resources, as well as environmental considerations. If confirmed as a director of TVA I will work with the committee to ensure that TVA's response to this issue reflects prudent logic.

*Question 2:* Does TVA intend to sell off the entire existing nuclear facilities and apply this to debt reduction?

Response. TVA's management has told me that there are no plans to sell existing nuclear facilities and that the study presently underway should provide information pertinent to the future of TVA's nuclear units now idle.

*Question 3:* In light of the current Congressional debate over nuclear waste and Yucca Mountain, I would like to hear your views of this issue.

Response. If confirmed as a TVA Director, I would be responsible to the people of the Tennessee Valley and to Congress for the cost incurred since 1982 as contributions to the Nuclear Waste Fund, the effect of TVA's spent final stage or the ratepayers, as well as proper regard for the environment.

I understand that TVA currently maintains spent nuclear fuel pools at three separate plant locations and that current finite storage capability is a problem for every nuclear-owning utility in the nation.

My view is that the solution to this issue will be determined by Congress, the Administration, and partner agencies by identifying the location for long-term storage of fuel. I am advised that Yucca Mountain is the current site under consideration.

If confirmed to the TVA Board, I pledge to work with the Congress and this committee toward progress on this issue.

*Question 4:* Last year, the TVA's debt was restructured through the omnibus Appropriations Bills, bypassing this committee. I want both of your assurances that in the future the TVA Board will work with this committee.

Response. If confirmed to the TVA Board, I promise to do my best to work closely with the Environment and Public Works Committee members as you perform your responsibilities.

*Question 5:* Standard & Poor's credit rating agency recently stated that "were Congress to enact the Administrations restructuring bill, it may be construed as indicative of diminished Congressional support of SOYA debt and could have implications for TVA's rating." If Congress were to let TVA outside the fence today, without Congressionally mandated protections and artificial competitive advantages, do you feel that TVA would survive in a competitive market? Why or why not? If so, do you believe TVA should operate under the same restrictions as other utilities?

Response. TVA exists today and its purpose for the future is to meet the mission as specified in the TVA Act; TVA's debt is secured in three (3) ways:

1. TVA's effectiveness in meeting its obligations under the TVA Act;
2. The economic viability and projected growth of the TVA service area; and??
3. Ultimately, the TVA ratepayers as security for the debt.

I believe in any discussion of restructuring the net effect on TVA's distributors, customers, consumers, the people and the environment of the Tennessee Valley has to be a primary consideration.

*Question 6:* Do you support the appointment of an independent Inspector General?

Response. Yes.

*Question 7:* What specific steps should be taken to bring accountability to TVA management?

Response.

1. Confirm nominees to the board.
2. Evaluate and measure the performance of TVA's operations and business activities.
3. Improve internal and external communication processes??

Thank you for your consideration. I am willing to serve on the TVA Board because I desire to make a positive difference and if confirmed, I look forward to working with you and the committee members toward this end.

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STATEMENT OF SKILA HARRIS, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE TENNESSEE VALLEY AUTHORITY

Thank you, Mr. Chairman, and the other Members of the committee for this opportunity to appear before you.

Preparing for this hearing, I have thought about your Constitutional responsibility to judge the merits of nominees. I appreciate and respect the seriousness with

which you carry out that responsibility. I can assure you that, if confirmed, my service as a Director of the Tennessee Valley Authority will be undertaken with the same seriousness and commitment to providing for the power needs of the Tennessee Valley, to promoting economic development and to managing environmental resources.

I will be a full time Director committed to making judgments and taking actions consistent with accountable management, fiscal responsibility, smart planning, and conscientious stewardship of natural resources—all in service to the Tennessee Valley region.

I want to express my deep appreciation to the President and the Vice President for the opportunity to serve they have given me. This nomination is an honor for me and my family. My late Grandparents, Jim and Myrtle Lester and Tessie and Minnie Harris and my late Father, Skiles Browning Harris and my Mother, Dorothy Lester Harris—who is beaming her support to me from Bowling Green—were born in the Tennessee Valley before TVA brought electricity to the region. Also a native of the Valley, I was raised on vivid, hardship stories about life during those early days.

The passage of time and my work in the energy business have added reality to those reminiscings. I recognize the challenges facing TVA in many areas but especially those posed by the emerging era of electric competition. In fact, I served as staff director of the Department of Energy's Tennessee Valley Electric System Advisory Committee. The committee included representatives from diverse groups who share a common and sometimes contentious interest in TVA's future in a competitive environment.

I think that the inclusive approach used during this process is a good model for TVA. Decisions made by TVA impact the lives of the nearly 8 million citizens in its service area; it is important for TVA to understand their interests and concerns and for those citizens to understand and support TVA's plans and decisions.

I see TVA as a corporate public servant, dedicated to the public good. In making the transition to a competitive market, the TVA Board has an obligation to make sure that the benefits of competition accrue to the citizens of the Valley and that they have a safe, reliable, and environmentally sound source of electricity to sustain the economic health of the region and the quality of their lives.

The Board also must fulfill its responsibilities to manage the resources of Tennessee River Valley in a way that provides for flood prevention, year-round navigation, protection of public health and the environment, and recreational uses. The philosophy of the TVA Act dictates a fundamental balance across crucial resource management decisions: balance in managing TVA's power program, TVA's dams and reservoirs, and the cumulative impact on the environment and the economy.

Just as the challenges facing Congress today are different from those it faced in its first years, the issues before TVA today are different and perhaps more complex than they were in the 1930's. The mission, however, is the same—to serve the region and the nation—for the greater public good.

I hope to have the opportunity to work along with Chairman Crowell and Mayor McCullough, as TVA continues to carry out its mission and meet today's new challenges.

Thank you very much.

## **UNITED STATES SENATE**

### **COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

## **INFORMATION**

### **REQUESTED OF PRESIDENTIAL NOMINEES**

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

**Name of Nominee:** Skila Harris

**Business Address:** NA

**Business Phone:** NA

**Home Address:** 1733 19th Street, NW  
Apartment 3  
Washington, DC 20009

**Home Phone:** 202-332-8627

**Home Fax:** 202-332-8637

**UNITED STATES SENATE**  
**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**  
**STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Harris Skila Sue  
 (Last) (First) (Middle)

Position to which  
 nominated: Director, Tennessee Valley Authority

Date of Nomination: September 23, 1999

Date of birth: 24 10 50 Place of birth: Bowling Green, KY  
 (Day) (Month) (Year)

Marital status: Married Full name of spouse: Fred Patterson Graham

**Name and ages of children:**

Step Children:  
 Grier Graham - 34  
 David Graham - 33  
 Alyse Graham - 30

**Education:**

Institution	Dates attended	Degrees received	Dates of degrees
Western Kentucky University	9/68 - 12/73	BA Government	12/73
George Washington University	Approx 9/74 - 77	MA Legislative Affairs	1977

**Employment record:**

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

9/73 - 8/75 The Singer Corporation - Manpower Training Division - Administrative Assistant  
 8/75 - 3/78 Tetra Tech, Inc. - Policy Analyst  
 4/78 - 12/79 Resource Planning Associates - Associate  
 12/79 - 11/80 U.S. Department of Energy - Special Assistant to the Assistant Secretary of Energy  
 for Resource Applications  
 11/80 - 4/86 U.S. Synthetic Fuels Corporation - Project Manager  
 4/86 - 2/89 Fred Graham, Inc. - Co-founder

2/89 - 11/92 Steiner-Liff Iron and Metal Company - Vice President for Development & Compliance

1/93 - 3/97 Office of the Vice President - Special Assistant to the Vice President and Mrs. Gore's Chief of Staff

6/97 - 8/99 U.S. Department of Energy - Executive Director - Secretary of Energy Advisory Board

**Honors and awards:**

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

None

**Memberships:**

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Washington Hospice	Volunteer	3/97 to present

**Qualifications:**

State fully your qualifications to serve in the position to which you have been named.

I have had 12 years of professional experience specifically in the field of energy. These include 2 ½ years with an engineering consulting firm, 1 ½ years with a management consulting firm specializing in energy-related work, and five years with the Synthetic Fuels Corporation. In addition, I have been a political appointee at the U.S. Department of Energy both during the Carter and Clinton/Gore Administrations. Most recently I served as the Executive Director of the Secretary of Energy Advisory Board.

Prior to assuming this position in June, 1997, I served as Special Assistant to Vice President Gore and Chief of Staff to Mrs. Gore. In addition to being a part of the Vice President's senior staff and managing Mrs. Gore's office, I was responsible for health care and other selected domestic policy issues.

Outside the energy field, my private sector experience includes serving as a vice president for Steiner-Liff Iron and Metal Company in Nashville for 3 ½ years.

I have worked with and managed senior engineers and scientists with expertise in all disciplines including project management, systems integration, environmental science, and safety. I also have worked extensively with operations managers, financial analysts and auditors, as well as senior administrative and personnel managers.



My work experience includes involvement in multimillion dollar negotiations associated with financial transactions and contracts. While with Steiner-Liff, I took part in creating two international joint ventures.

I was born, raised and lived in the Tennessee Valley. My hometown is Bowling Green, Kentucky. I graduated from Western Kentucky University an undergraduate degree in Government and have a masters degree in Legislative Affairs from George Washington University.

**Future  
employment  
relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

If confirmed, as a Director of TVA, I may have occasion to work with the Department of Energy.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No

3. Has anybody made a commitment to you for a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Yes

- (b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

NA

© If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

I resigned from the U.S. Department of Energy on August 13, 1999 in anticipation of my nomination to this position. Prior to that I served as a member of the Vice President's staff from 1993 until 1997 and resigned that position to pursue other jobs opportunities.

**Financial  
Statement:**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect

to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

None

2. Are any assets pledged?

NA

3. Are you currently a party to any legal action?

No

4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

No

**Potential conflicts  
of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

I have been informed that among the holdings in my husband's IRA there are securities in two companies, Central Parking and GTE, which have done business with TVA.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I have made a commitment to either recuse myself, seek an exemption under the conflict-of-interest law, or divest the interest.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

See attached

**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

I was a volunteer in the 1992 Clinton/Gore Campaign.

**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

None

**Additional  
Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1499

SEP 24 1993

FEDERAL EXPRESS

Mr. Stephen D. Potts, Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, D.C. 20005-3917

Dear Mr. Potts:

I have reviewed and approved the enclosed financial disclosure report filed by Skila S. Harris, nominee for the Tennessee Valley Authority Board of Directors. Her report discloses no conflict of interest under applicable laws and regulations.

She has committed, if confirmed, to take the following actions:

1. During her TVA term, she will not actively engage in any other business or receive any outside earned income, nor will she serve in any outside position unless allowed by law and applicable policy.
2. She will not participate in any TVA matter affecting a financial interest of hers or of her spouse (or of any entity with which she is serving, as allowed, as officer, director, trustee, general partner, or employee, or with which she is negotiating or has any arrangement concerning prospective employment) unless such interest is exempt or waived under Section 208 or unless she divests the interest.

Sincerely,

A handwritten signature in cursive script, reading "William L. Osteen".

William L. Osteen  
Associate General Counsel and  
Designated Agency Ethics Official

Enclosure

cc: Ms. Skila S. Harris  
1733 19th Street, NW, Apt. 3  
Washington, D.C. 20009

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

#### AFFIDAVIT

*Skila Harris*

SKILA HARRIS

ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 30<sup>th</sup> day of September, 1999.

*Colleen A. Templeton*

Notary Public

Colleen A. Templeton

My Commission Expires July 14, 2001

#### RESPONSES OF SKILA HARRIS TO ADDITIONAL QUESTIONS FROM SENATOR CHAFEE

*Question 1.* Last year, my subcommittee dealt with the issue of Ozone/Particulate Matter standards. At that time, TVA Chairman Craven Crowell testified TVA compliance costs would be in the billions. TVA is now close to bringing one nuclear facility on-line, yet still has other facilities in a dormant State. First, I would like to know what you intend to do with these clean-burning facilities in light of the enormous costs facing TVA?

Response. TVA's current 10-Year Plan does not envision completion of any of TVA nuclear facilities or restart of the Browns Ferry Unit 1. However, TVA is undertaking a major study of the need for new generation facilities. The study will include analysis of the cost-effectiveness of completing or restarting these nuclear units. If I am confirmed, the results of this study and other business considerations will influence my view of the best options for these facilities.

*Question 2.* Does TVA intend to sell off the existing nuclear facilities and apply this to debt reduction?

Response. My understanding is that there are no plans to sell existing nuclear facilities. However, as part of a study to assess new generation needs, TVA is analyzing the cost-effectiveness of starting up nuclear units currently not operating.

*Question 3.* In light of the current Congressional debate over nuclear waste and Yucca Mountain, I would like to hear your views on this issue.

Response. TVA operates five nuclear units located at three separate plant locations in the Tennessee Valley—Browns Ferry, Sequoyah and Watts Bar. In my briefings I learned that spent nuclear fuel from each of these facilities is currently maintained in storage pools located onsite.

TVA shares the same problem of every nuclear-owning utility in the nation—on-site storage is finite. I have been told that since 1982, TVA has continuously contributed to the Nuclear Waste Fund, which funds the construction of a permanent repository for the nation's nuclear waste at Yucca Mountain. Unless there is some technological breakthrough or new scientific evidence suggests otherwise, it appears that Yucca Mountain is the best option for permanent fuel storage.

*Question 4.* Last year, the TVA's debt was restructured through the Omnibus?? Appropriations Bills, bypassing this Committee. I want both of your assurances that in the future the TVA Board will work with this Committee.

Response. As I testified during the confirmation hearing, I can assure you that as a TVA Board member I will work closely with the Senate Environment and Public Works Committee as it performs its oversight responsibilities.

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#### RESPONSES OF SKILA HARRIS TO ADDITIONAL QUESTIONS FROM SENATOR INHOFE

*Question 1.* Standard and Poor's credit rating recently stated that "were Congress to enact the Administration's restructuring bill, it may be construed as indicative of diminished Congressional support of TVA debt and could have implications for TVA's rating." If Congress were to let TVA outside the fence today, without Congressionally mandated protections and artificial competitive advantages, do you feel that TVA would survive in a competitive market? Why or why not? If so, do you believe TVA should operate under the same restrictions as other utilities?

Response. The issues raised by these questions are extremely important and equally complicated. If I am confirmed, I will work to develop the intimate understanding of TVA's operating and financial inter-working and market dynamics needed to respond knowledgeably to these questions. As I gain insight into the impact of different timing and regulatory scenarios on TVA competitiveness, I will share with the Committee my thoughts on these and other relevant issues.

*Question 2.* Do you support the appointment of an independent Inspector General? Response. I support greater objectivity and independence for TVA's Office of Inspector General. Based on my experience in the Federal Government, appointment by the President of the Inspector General increases independence and objectivity. If confirmed, I will pursue and support this and other steps to enhance accountability, strengthen management, and encourage fiscal responsibility.

*Question 3.* What specific steps should be taken to bring greater accountability to TVA management?

Response. I believe accountability and openness are closely linked. If confirmed, I will encourage the Board and senior managers to find innovative means to make more information available. The additional scrutiny invited by greater openness will encourage accountability and increase understanding of TVA and its missions.

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#### STATEMENT OF GERALD V. POJE, NOMINATED BY THE PRESIDENT TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Thank you, Mr. Chairman and distinguished members of the Committee for today's opportunity to appear before the Committee regarding my nomination to serve a full 5-year term on the Chemical Safety Board. I am Gerald V. Poje, Ph.D., one of four members currently serving on the U.S. Chemical Safety and Hazard Investigation Board (CSB). Nearly 5 years ago President Clinton nominated me to the Board, and the U.S. Senate confirmed that nomination on October 7, 1994. The Board was not funded until November 1997, and therefore I have served less than 2 years as a Board member.

The Chemical Safety Board holds enormous promise for the health and safety of Americans as indicated by the impact it has had during its very brief operating history. Yet, much more remains to be done over the next 5 years before this new Fed-

eral agency reaches its full potential. I would consider myself privileged and honored if this Committee concurs with the President's confidence in my qualifications and allows me to become part of that endeavor.

The Chemical Safety Board is an independent Federal agency with the important mission of ensuring the safety of workers and the public by preventing or minimizing the effects of industrial and commercial chemical incidents. Congress modeled the CSB after the National Transportation Safety Board (NTSB), which investigates aircraft and other transportation accidents for the purpose of improving safety. The CSB is not an enforcement or regulatory body. Like the NTSB, the CSB is a scientific investigatory organization with responsibility for finding ways to prevent or minimize the effects of chemical incidents at commercial and industrial facilities. Beyond investigation of incidents, the Board is charged with the conduct of safety research. Additionally, the Board can advise Congress, industry, labor, and others on actions that can be taken to improve safety, and we are asked to recommend regulatory actions to public agencies such as the U.S. Environmental Protection Agency and the U.S. Department of Labor.

#### *Qualifications*

I am a specialist in toxicology one of the technical qualifications specified for Board membership in CSB's enabling legislation. I received my doctoral degree from New York University, and then conducted research and developed curricula in toxicology and environmental science as a professor on the faculty at Miami University of Ohio. My research focused on the chronic health impacts of acute chemical exposures on biological systems.

I have extensive knowledge of policies regarding the safe management of chemical hazards. Prior to joining the Chemical Safety Board, I directed international programs and public health for the National Institute of Environmental Health Sciences (NIEHS), serving as senior adviser to the director of NIEHS and the National Toxicology Program on disease prevention, health promotion, environmental justice, and international environmental health research activities. I coordinated minority health programs, and served on departmental and Federal interagency task forces on environmental justice, migrant health and Brownfields Redevelopment. In addition, I also served on U.S. delegations to intergovernmental meetings on chemical safety. As a U.S. delegate, I helped forge consensus on contentious issues, such as endocrine disrupting substances and helped promote the development of international information networks to enhance global understanding of chemical hazards and their risks.

Prior to joining the Board, I testified before Congress on pollution prevention policy, Clean Air Act legislation, chemical accident prevention, and groundwater protection policies. I am a member of the Collegium Ramazzini, an international society of distinguished toxicological and safety experts, and a member of the American Public Health Association. I serve as an adviser to the National Association of City and County Health Officials regarding community environmental health assessments. I have lectured on chemical hazards and policies to reduce their risks before community, labor, business, and government audiences in North America, Latin America, Europe, and Asia.

I have also served as Vice President for Research at Green Seal where I directed research investigations into the environmental impacts of consumer products, evaluated life-cycle analyses, wrote criteria for voluntary environmental standards, and organized and chaired public hearings. As a senior scientist for the National Wildlife Federation, I managed multiple projects that researched, developed technical reports, and implemented activities regarding the Emergency Planning and Community Right-to-Know Act of 1986, groundwater protection, pesticide risk reduction, and pollution prevention.

#### BOARD ACCOMPLISHMENTS

##### *I. Investigation Efforts*

A primary function of the Chemical Safety Board is to investigate significant chemical incidents for the purpose of preventing their recurrence. I have worked closely with fellow board members and senior technical staff to complete three investigative reports: the Sierra Chemical Explosion, Nitrogen Asphyxiation incident at Union Carbide, and the Herrig Brothers BLEVE incident. In March 1998, I served as the Board member on scene near Pitkin, Louisiana at the Sonat Exploration explosion and fire that claimed four lives. That investigation is nearing completion.

I also serve as the lead Board member on the investigative team examining the Tosco Refinery incident that killed four workers and seriously injured a fifth worker

in February of this year. Our Board has just completed a Board of Inquiry and public hearing in Martinez, CA regarding that incident. We are nearing the end of a thirty-day open request for additional evidence, a procedure that occurs as a prelude to completion of the investigation.

Two important challenges confront the Chemical Safety Board's investigative efforts: first, the number of incidents demands that we select only the most important incidents to investigate; second, the unique nature of the work requires that we establish a specific Chemical Safety Board protocol for conducting investigations.

Unfortunately, America experiences a greater number of deadly chemical incidents than the Board is staffed or funded to investigate. I have worked with senior staff and the lead Board Member who are preparing a draft report on incident selection criteria. The CSB will host a major roundtable discussion with our stakeholders on November 9, 1999 to finalize our selection procedures.

The CSB's investigation realm is unique. We are a non-regulatory, scientific and technical Federal agency whose primary effort is to promote prevention of incidents in the private sector. While conceived in light of the National Transportation Board model, CSB lacks parallel authority to conduct preliminary fact-finding by employing relevant technical experts from among the key stakeholders. Other Federal agencies have developed investigation protocols that are either regulatory driven (i.e., OSHA and EPA) or are similar to self-investigatory efforts in the private sector (i.e., DOE and DOD). Neither model is appropriate for the CSB. Consequently, I have reviewed major investigation protocols from the public and private sector to find the best practices to employ in the CSB's protocol. The CSB Board and staff will be preparing our own investigation protocol, based on elements of these other protocols and on lessons from our own completed and on-going Board investigations.

## *II. Research Efforts*

While the Board seeks to promote prevention through the primary mechanism of incident investigation, the agency is also directed to conduct prevention research toward the same purpose. In May, 1998 I worked with senior staff to organize and convene a Chemical Safety Board meeting on Chemical Accident Prevention Research, as the first multi-stakeholder meeting sponsored by the Board. I represent the Chemical Safety Board on the White House Committee on Environment and Natural Resources Subcommittee on Toxics and Risk: an activity that seeks to harmonize Federal research efforts. In addition, I participate in the Chemical Safety Program Assessment Project that seeks to set and implement national goals for accident prevention through a public-private partnership organized by the Mary Kay O'Connor Center for Process Safety at Texas A&M University.

Since the Board's inception, I have overseen the Board's efforts on reducing the risks of incidents associated with Year 2000 (Y2K) computer problems. The Y2K Problem is significant in the chemical manufacturing and handling sector, posing unique risks to business continuity and worker and public health and safety, sometimes out of proportion to the size and staffing of the business. According to the U.S. EPA, 85 million Americans live, work, and play within a 5-mile radius of 66,000 facilities that handle regulated amounts of high hazard chemicals. Many of these facilities have internal and external dependencies on automated equipment. In the past week leading chemical manufacturers in Charleston, WV, including Rhone-Poulenc, DuPont, Monsanto Co. and Ashland Chemical., announced plans to temporarily halt operations New Year's Eve as a precaution against toxic accidents when the calendar turns from 1999 to 2000.

At the request of Senators Bennett and Dodd of the U.S. Senate Special Committee on the Year 2000 Technology Problem, the CSB convened an expert workshop on Y2K and Chemical Safety. As coordinator of this effort, I involved leaders from industry, equipment vendors, insurance companies, regulatory agencies, research agencies, universities, labor organizations, environmental organizations, trade associations, professional engineering associations, and health and safety organizations. This culminated in the release of the CSB's first research report and recommendations: *The Year 2000 Issues: Technology Problems and Industrial Chemical Safety*, which included the following findings: Large enterprises with sufficient awareness, leadership, planning, financial and human resources are unlikely to experience catastrophic failures and business continuity problems unless their current progress is interrupted or there are massive failures of utilities. The situation with small and mid-sized enterprises is indeterminate, but efforts on the Y2K problem appears to be less than appropriate based upon expert analysis. While the impact of the Risk Management Plans should be positive, there are no special emphases or even specific mention of Year 2000 technology hazards in either U.S. Environmental Protection Agency or Occupational Safety and Health



## ADMINISTRATION REGULATIONS REGARDING PROCESS SAFETY

Federal agencies are aware of and involved in Year 2000 technology and chemical safety issues. However, significant gaps exist, and there do not appear to be specific plans to address these gaps.

As an outgrowth of this endeavor, I have testified twice in the U.S. Senate regarding chemical safety and Y2K: the first requests for the CSB to provide technical safety information to this legislative body. The Board worked with the EPA and seven trade associations of chemical handling industries to produce and distribute a special guidance document for small and mid-sized enterprises. I transmitted copies of our report to the Governors of States and territories requesting their attentiveness to this problem. In conjunction with the Senate Special Committee, the Board promoted the initiation of a special focus on chemical safety at the President's Council on Y2K. Most recently, I helped develop and promote a Y2K Awareness Training module for the hazardous materials work force available through the NIEHS.

In the international arena, I worked with the Intergovernmental Forum on Chemical Safety, the World Health Organization's International Programme on Chemical Safety, and the Organization for Economic Cooperation and Development to promote global awareness, remediation, and contingency planning around Y2K problems. I continue to interact with these organizations to improve preparedness in the chemical sector.

*Summary*

In summary, the Chemical Safety Board has enormous promise for the health and safety of Americans as indicated by the impact over our very brief history. I believe that I have made significant contributions to the Board over the last 2 years. Yet, much more work remains to be done over the next 5 years if the CSB is to reach its full potential. I would consider myself privileged and honored if this Committee concurs with the President's confidence in my qualifications and allows me to become part of that endeavor.

**UNITED STATES SENATE****COMMITTEE ON ENVIRONMENT  
AND PUBLIC WORKS**

ROOM 410 DIRKSEN BUILDING

WASHINGTON, DC 20510

**INFORMATION****REQUESTED OF PRESIDENTIAL  
NOMINEES**

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Statement For Completion By Presidential Nominees. The Statement is intended to be publicly available. In the event that a nominee asks that a specific answer be kept confidential, he or she should notify the Chairman and Ranking Member.

The original and forty (40) copies of the requested information should be made available to Honorable John H. Chafee, Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510 (Attn: Staff Director) as soon as possible.

**Name of Nominee:** Gerald Vincent Poje, Ph.D.

**Business Address:** U.S. Chemical Safety and Hazard Investigation Board  
2175 K Street, N.W.  
Suite 400  
Washington, DC 20037

**Business Phone:** 202-261-7600 (     )

**Home Address:** 2530 Rambling Court  
Vienna, VA 22181

**Home Phone:** 703-242-3632 (     )

**UNITED STATES SENATE**  
**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**  
**STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

Name: Poje Gerald Vincent  
 (Last) (First) (Middle)

Position to which nominated: Board Member, U.S. Chemical Safety and Hazard Investigation Board

Date of Nomination: \_\_\_\_\_

Date of birth: 01, July 1950 Place of birth: Brooklyn, New York  
 (Day) (Month) (Year)

Marital status: Married Full name of spouse: Marie Ann Leyko

Name and ages of children: Maira Septima Leyko Poje 6 Years Old  
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 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	Institute of Environmental Medicine New York University Medical Center	1/78 – 2/81	Doctor of Philosophy	2/81
	Graduate School of Arts and Sciences New York University	9/73 – 10/77	Master of Science	10/77
	Washington Square College New York University	9/68 – 6/72	Bachelor of Arts	6/72

**Employment record:**

List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

**1997-Present** **Board Member**  
**U.S. Chemical Safety and Hazard Investigation Board**  
**2175 K Street, NW, Suite 400**  
**Washington, DC**

Worked with the chairman, other board members and senior staff to develop this new agency which was funded for the first time in November, 1997.

**Employment record—continued**

Manages the board's efforts on reducing risks of accidents associated with Year 2000 (Y2K) computer problems. Convened an expert workshop on Y2K and Chemical Safety, testified in Congress, participated in many forums involving leaders from industries, equipment vendors, insurance companies, regulatory agencies, research agencies, universities, labor organizations, environmental organizations, trade associations, legal organizations, professional engineering associations, and health and safety organizations. Served as the Board member on scene at the Sonat Exploration explosion and fire that claimed four lives near Pitkin, Louisiana in March, 1998. Lead board member on the team investigating the Tosco Refinery incident from February 1999. Organized and convened a safety board meeting on Chemical Accident Prevention Research.

**1992-1997                      Director of International Programs and Public Health  
National Institute of Environmental Health Sciences  
National Institutes of Health  
Bethesda, MD**

Served as senior advisor to the director of NIEHS and the National Toxicology Program on disease prevention, health promotion, environmental justice, and international environmental health research activities. Coordinated minority health programs, and served on departmental and federal interagency task forces on environmental justice, migrant health, and Brownfields Redevelopment. Served on U.S. delegations to intergovernmental meetings on chemical safety; developed consensus policy regarding research and information exchange on endocrine disrupting substances.

Promoted through the World Health Organization and the Intergovernmental Forum on Chemical Safety the development of international information networks to enhance global understanding of chemical hazards and their risks.

**1991-1992                      Vice President for Research  
Green Seal  
Washington, DC**

Directed research investigations into the environmental impacts of consumer products. Evaluated life-cycle analyses. Wrote criteria for voluntary environmental standards. Organized and chaired public hearings on standards. Represented the organization before national and international standards organizations.

**Employment record—continued**

**1986-1991            Senior Scientist/Environmental Toxicologist  
National Wildlife Federation  
Washington, DC**

Managed multiple projects that researched, developed technical reports, and implemented activities regarding the Emergency Planning and Community Right-To-Know Act of 1986, groundwater protection, pesticide risk reduction, and pollution prevention. Developed policy recommendations on chemical accident prevention. Testified before federal, state, and local legislative bodies on policies involving chemical hazards.

**1985-1986            Consulting Environmental Toxicologist  
Columbus, OH**

Evaluated risk assessment guidelines for Ohio EPA. Chaired the Toxics Committee for Ohio EPA Public Water Supply Division. Evaluated groundwater contamination problems for the Ohio Department of Oil and Gas.

**1982-1985            Assistant Professor  
Miami University  
Oxford, OH**

Developed graduate and undergraduate curricula in environmental and toxicological sciences. Conducted research on volatile organic compounds through contracts with the Air Force Office of Scientific Research and the Center for Engineering Education.

**Honors and awards:**

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Member of the Collegium Ramazini – Honorary Society of Occupational and Environmental Health Professionals

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**Memberships:**

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
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2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no plans to resume employment with any previous employer after my tenure on the U.S. Chemical Safety and Hazard Investigation Board.

3. Has anybody made a commitment to you for a job after you leave government?

No one has made a commitment to me for future employment after I leave government service.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

If reappointed to the U.S. Chemical Safety and Hazard Investigation Board, I intend to serve the full five-year term.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

Not Applicable.

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

I currently serve as a board member of the U.S. Chemical Safety and Hazard Investigation Board, a position which requires Presidential Nomination and Senate Confirmation. I was confirmed on October 7, 1994.

**Financial Statement:**

Note: The Office of Government Ethics will provide the Committee with a copy of your Executive Personnel Financial Disclosure Report (SF-278).

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF-278, Schedule A.

I have no anticipated receipts from deferred income arrangements, stock options, uncompleted contracts or other future benefits from previous business relationships, professional services, firm memberships or from former employers clients and customers. However, as listed on my form SF278, I have two tax-deferred annuities that are the result of previous employment. Neither of these two annuities poses any potential or actual conflict of interest.

2. Are any assets pledged?

No.

3. Are you currently a party to any legal action?

No.

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4. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

I have filed Federal income tax for each of the last ten years.

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5. Has the Internal Revenue Service ever audited your Federal tax return? if so, what resulted from the audit?

I have not been audited by the Internal Revenue Service. However, in 1996 my joint federal return for 1995 had to be revised to amend form 2441. That action resulted in an adjustment to our gross income and consequently my wife and I paid an additional seven dollars in tax.

**Potential conflicts of interest:**

1. Describe any financial or deferred compensation agreements or other continuing of interest: dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

I have no such financial dealings or deferred compensation agreements which could influence the position to which I have been nominated.

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2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

As listed on form SF-278, my spouse owns Covance Corp. stock. It is highly unlikely, but possible that the Chemical Safety and Hazard Investigation Board could investigate a chemical accident involving Covance Corp. If such an investigation were to occur, I would recuse myself from all matters concerning the case. I have further advised the Board Chair, other board members, and Board staff to consult with the Designated Ethics Official in case of uncertainty about whether a matter is covered by this recusal.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

To the best of my knowledge I have not had any business relationship, dealing or financial transaction (other than taxpaying and former employment) during the last 10 years with the Federal Government that might constitute or result in a conflict of interest or the appearance of a conflict of interest with the position to which I have been nominated.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

Although no conflicts have been identified by my responses to the above items, I have discussed the possibility of any other potential conflict of interest, or appearance of conflict of interest with the Designated Ethics Officer and General Counsel of the U.S. Chemical Safety and Hazard Investigation Board and would act in accordance with his counsel.



5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.  
Attached is a letter dated September 20, 1999 from the agency's General Counsel and designated ethics official advising the Office of Government Ethics that, pursuant to the Ethics in Government Act, he has reviewed my financial interests and concluded that there are no conflicts. If reappointed, I will continue to comply with all conflict of interest laws and regulations applicable to my position, and I will seek and follow the counsel of the designated ethics officer if an actual or potential conflict ever arises.

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**Political affiliation  
and activities:**

List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

None.

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**Published  
writings:**

List the titles, publishers and dates of any books, articles, or reports you have written.  
(Please list first any publications and/or speeches that involve environmental or related matters.)

**PAPERS**

Hill, Paul L., Jr., G. V. Poje, I. Rosenthal and A. Taylor. 1999. Investigation Report: Propane Tank Explosion (2 Deaths, 7 Injuries) Herrig Bros. Feather Creek Farm, Albert City, IA. U.S. Chemical Safety and Hazard Investigation Board. Washington, DC.

Hill, Paul L., Jr., G. V. Poje, I. Rosenthal and A. Taylor. 1999. Investigation Report: Nitrogen Asphyxiation (1 Dead, 1 Injured) Union Carbide Corporation, Hahnville, LA. U.S. Chemical Safety and Hazard Investigation Board. Washington, DC.

Poje, G. V. and Hill, Paul L., Jr. 1999. Accident Investigation Report: Sierra Chemical Company, Mustang, Nevada January 7, 1998. Presentation and paper submitted to the American Institute of Chemical Engineers 33<sup>rd</sup> Loss Prevention Symposium, Houston, TX.

Arochlor 1254 in the amphipod, Gammarus tigrinus, fed contaminated fungus, Fusarium oxysporum. Arch. Env. Contam. Tox. 14: 59-64.

Poje, G.V. 1984. Impact of trichloroethylene on the behavior, physiology and morphology of Gammarus tigrinus. Abstract and Presentation. Society of Environmental Toxicology and Chemistry Annual Meeting, Washington, DC.

Poje, G.V. 1983. Acute and chronic response profiles of an amphipod after sublethal exposure to toxicant pulses typical of chemical spills: implications for recovery. Abstract and Presentation. Society of Environmental Toxicology and Chemistry Annual Meeting, Washington, DC.

Poje, G.V. 1983. Evaluation of naphthalene toxicity using short-term exposure and the amphipod, Gammarus tigrinus. Final Report prepared for the Southeast Center for Electrical Engineering Education. St. Cloud, FL. Contract No: F49620-82-C-0035.

Poje, G.V., S.A. Riordan and J.M. O'Connor. 1983. Chapter 72. Power plant chlorination: immediate and persistent effects of sublethal concentrations on an estuarine crustacean. In R.J. Jolley (ed.) Water Chlorination: Environmental Impact and Health effects, Volume 4, Book 1, Chemistry and Water Treatment. Ann Arbor Science Publishers, inc. Ann Arbor, MI.

Poje, G.V., T.C. Ginn and J.M. O'Connor. 1982. Physical simulation of power plant entrainment. Water Research 16: 921-928.

Poje, G.V., S.A. Riordan and J.M. O'Connor. 1981. Lethal and sublethal effects of power plant condenser tube passage on selected estuarine plankton with emphasis on thermal, biocidal and mechanical stress. U.S. Nuclear Regulatory Commission NUREG/CR-2091.

O'Connor, J.M. and G.V. Poje. 1979. Power plant entrainment simulation utilizing a condenser tube simulator. U.S. Nuclear Regulatory Commission. NUREG/CR-0894.

Poje, G.V., T.C. Ginn and J.M. O'Connor. 1978. Responses of ichthyoplankton to stresses simulating passage through a power plant condenser tube. IN: Thorpe III, J.H. and J. Whitfield Gibbons (eds.), Energy and Environmental Stress in Aquatic Systems. ERDA Symp. Series CONF-7711114.

**TESTIMONY**

**Statement of Gerald V. Poje of the U.S. Chemical Safety and Hazard Investigation Board** Before the Special Committee on the Year 2000 Technology Problem, United States Senate at Field Hearing on Year 2000 Computer Technology Problem and Chemical Safety Issues, Trenton, NJ, May 10, 1999.

**Statement of Gerald V. Poje of the U.S. Chemical Safety and Hazard Investigation Board** Before the Subcommittee on Clean Air, Wetlands, Private Property and Nuclear Safety United States Senate Environment and Public Works Committee at Hearings on Year 2000 Computer Technology Problem and Chemical Safety Issues, February 24, 1999.

**Statement of Gerald V. Poje of the National Wildlife Federation**  
Before the House Subcommittee on Employment and Housing, House of Representatives at Hearings on Federal and Industry Standards and Policy Related to the Petrochemical Industry, July 23, 1990.

**Statement of Gerald V. Poje of the National Wildlife Federation**  
Before the Joint Environmental Committees of the New Jersey Legislature at Hearings on the New Jersey Hazard Elimination Through Local Participation Act 1990 (S.2058/A.2832) Rutgers Labor Education Center, New Brunswick, New Jersey, February 28, 1990.

**Statement of Gerald V. Poje of the National Wildlife Federation**  
On Behalf of the National Clean Air Coalition Before the Senate Subcommittee on Environmental Protection, Environment and Public Works Committee, U.S. Senate at Hearing on Legislation to Control Airborne Toxic Chemical Releases, September 21, 1989.

**Statement of Gerald V. Poje of the National Wildlife Federation**  
On Behalf of the National Clean Air Coalition Before the House Subcommittee on Health and Environment, United States House of Representatives at Hearings on H.R. 2585, The Toxic Air Release Control Act of 1989, June 22, 1989.

**Statement of Gerald V. Poje of the National Wildlife Federation**  
Before the House Subcommittee on Transportation and Hazardous Materials, United States House of Representatives at Hearings on H.R. 1457 The Waste Reduction Act, May 25, 1989.

**Statement of Gerald V. Poje of the National Wildlife Federation**  
Before the Senate Subcommittee on Superfund, Ocean and Water Protection, United States Senate at Hearings on the Toxic Release Inventory and Pollution Prevention, May 10, 1989.

**Speeches**

The Year 2000 Technology problem and Chemical Safety: Prevention Recommendations. Presented to the National Governors' Association, State Emergency Response Commission Conference, Ogunquit, ME. September 13, 1999.

The Chemical Safety Board: Status and Prevention Recommendations. Presented to the International Association of Fire Fighters 15<sup>th</sup> Symposium on Occupational Health and Hazards, John Redmond Foundation, Honolulu, HI. August 23, 1999.

The Chemical Safety Board: Status and Prevention Recommendations. Presented to the Canvassers Summer Conference, Ohio State University, Columbus, OH. August 13, 1999.

Chemicals and the Millennium Bug: The Problem and its Prevention. Presented to the NIEHS Training Clearinghouse Meeting, Washington, DC. August 4, 1999.

Chemicals and the Millennium Bug: The Problem and its Prevention. Presented to the Tides Foundation – Environmental Justice Leadership Meeting, Washington, DC. July 14, 1999.

Chemicals and the Millennium Bug: The Problem and its Prevention. Presented to the Mississippi River Basin Alliance Annual meeting, St. Louis, MO. July 10, 1999.

Chemicals and the Millennium Bug: The Problem and its Prevention. Presented to the to participate at the California Office of Emergency Services Conference on Y2K for Hazmat Teams, Sacramento, CA, June 29, 1999.

Chemicals and the Millennium Bug: The Problem and its Prevention. Presented to the Air & Waste Management Association Meeting, St. Louis, MO. June 22, 1999.

Chemicals and the Millennium Bug: The Problem and its Prevention. Presented to the American Industrial Hygiene Association Annual Meeting, Toronto, CN. June 9, 1999.

Chemicals and the Millennium Bug: The Problem and its Prevention. Presented to the American Council of Government Industrial Hygienists – Computer Committee, Toronto, CN. June 8, 1999.

The Chemical Safety Board: Status and Prevention Recommendations. Presented at the American Industrial Hygiene Association Meeting – Confined Space Committee, Toronto, CN. June 6, 1999.

Hazards and the Millennium Bug: Training for Prevention. Presented at the National Institute of Environmental Health Sciences Training Grantee Meeting, Washington, DC. June 4, 1999.

Chemicals and the Millennium Bug: The Problem and Its Prevention. Presented to the Air Force Y2K Technical Exchange Meeting, Crystal City, VA. April 20, 1999.

Chemicals and the Millennium Bug: The Problem and Its Prevention. Presented to the National Pollution Prevention Roundtable – 1999 Spring Conference, Washington, DC. April 7, 1999.

Chemicals and the Millennium Bug: The Problem and Its Prevention. Presented to the National Petrochemical and Refiners Association International Conference, San Antonio, TX. March 30, 1999.

Accident Investigation Report: Sierra Chemical Company, Mustang, NV. Presented at the American Institute of Chemical Engineers Spring Meeting, Houston, TX. March 17, 1999.

Chemical Accidents and the Year 2000: New Preventative Approaches Needed. Presented to the National Institute of Occupational Safety and Health – Environmental Resource Centers Winter Forum, Clearwater, FL. February 10, 1999.

Chemical Accidents and the Year 2000: New Preventative Approaches Needed. Presented to the Green Group Forum. Washington, DC. January 28, 1999.

Chemical Accidents and the Year 2000: New Preventative Approaches Needed. Presented to the Washington Post Community Forum on Embedded Systems. Washington, DC. January 28, 1999.

Chemical Accidents and the Year 2000: New Preventative Approaches Needed. Presented to the Mid-Atlantic pollution Prevention Conference, Baltimore, MD. January 21, 1999.

Chemical Accidents and the Year 2000: New Preventative Approaches Needed. Presented to the AFL-CIO Health and Safety Directors Conference, Washington, DC. January 21, 1999.

Chemical Accidents and the Year 2000: New Preventative Approaches Needed. Presented at the South Texas AIChE Process Safety Symposium, Houston, TX. October 26-27, 1998.

Chemical Accident Prevention: Approaches to the Y2K Problem. Presented to the the National Institute of Environmental Health Sciences, Research Triangle Park, NC October 19, 1998.

Chemical Accident Prevention: Approaches to the Y2K Problem. Presented to the Chemical Manufacturers' Association, Arlington, VA. October 15, 1998.

Chemical Accidents and the Year 2000 Technology Problem. Presented to the Committee for Environment and Natural Resources, Subcommittee on Toxics and Risk. White House Conference Center, Washington, DC. September 24, 1998.

Chemical Accident Investigations: New Approaches. Presented to the U.S. Environmental Protection

Agency Accident Prevention Advisory Subcommittee. Washington, DC. September 9, 1998.

The Chemical Safety and Hazard Investigation Board. Presented at the Canvassers' Conference – Ohio State University, Columbus, OH. July 30-31, 1998.

Chemical Accident Investigations: New Approaches. Presented to the National Environmental Law Center – Great Lakes Pollution Prevention and Chemical Safety Project Policy Forum. Chicago, IL. June 22, 1998.

Chemical Accident Investigations: New Approaches. Presented to Occupational Safety and Health State Plan States Association Spring Meeting. Minneapolis, MN. June 8, 1998.

Chemical Accident Investigations: New Approaches. Presented to the Twelfth Legislative Conference, Coalition for Legislative Action, Washington, DC. June 3, 1998.

The Chemical Safety and Hazard Investigation Board. Presented to the American Institute of Chemical Engineers/Center For Chemical Process Safety – Technical Advisory Group, Las Vegas, NV. May 12, 1998.

The Chemical Safety and Hazard Investigation Board. Presented to the National Institute of Environmental Health Sciences. Research Triangle Park, NC. May 5, 1998.

Chemical Accidents and Public Health: New Approaches. Presented to the Agency for Toxic Substances and Disease Registry – Board of Scientific Counselors, Atlanta, GA. April 30, 1998.

Status of Chemical Accident Prevention. Presented at the 14<sup>th</sup> International Hazardous Materials Spills Conference, Chicago, IL. April 5-6, 1998.

Public Health and Communities: Brownfields Redevelopment. Presented to the Tulane Environmental Law Conference, New Orleans, LA. March 5, 1998.

#### **Additional Matters:**

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

Corporations, firms partnerships, trusts, other business entities, non-profit organizations and institutions which I have had an advisory or consultant relationship:

Organization: National Association of City and County Health Officials  
Organization: George Washington University

Relationships with above entities:

Organization: National Association of City and County Health Officials  
Relationship: Unpaid Advisor on Community Environmental Health Project  
Duration: 1995 - Present

Organization: George Washington University  
Relationship: Adjunct Associate Professor – Unpaid Position  
Duration: 1990 - 1996

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**Additional matters—continued**

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2. Do you agree to appear before all Congressional Committees which seek your testimony?

I agree to appear before all Congressional Committees which seek my testimony.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

Not at this time.

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**AFFIDAVIT**

Donald Vincent Byi ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribed and sworn before me this 29<sup>th</sup> day of September, 1997.

Janice M. Rosnick  
Notary Public  
My Commission Expires November 14, 1999



**U. S. Chemical Safety and Hazard Investigation Board**  
2175 K Street N.W., 4<sup>th</sup> Floor, Washington, D.C. 20037  
Phone 202-261-7600 Fax 202-261-7650

September 20, 1999

**Dr. Paul L. Hill, Jr.**  
**Chairman and CEO**

Honorable Stephen D. Potts  
Director, U.S. Office of Government Ethics  
Suite 500  
1201 New York Avenue, NW  
Washington, D.C. 20005-3917

By Hand Delivery

Dear Mr. Potts:

In accordance with Section 203(c) of the Ethics in Government Act, enclosed is the financial disclosure report of Mr. Gerald Poje, who has been nominated as a Member of the United States Chemical Safety and Hazard Investigation Board.

In our review, we examined his financial interests in light of the issues that he may be asked to address in this position and have concluded that there are no conflicts. Accordingly, we have determined that the report discloses no conflict of interest under applicable laws and regulations.

I therefore recommend that you sign Mr. Poje's report and submit the report along with your letter to the Senate Committee on Environment and Public Works.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. W. Warner".

Christopher W. Warner  
Designated Agency Ethics Official

Enclosure